THE NATIONAL ARCHIVES LITTERA SCRIPTA MANET 1934 OF THE UNITED STATES

FEDERAL REGISTER

VOLUME 4 NUMBER 252

Washington, Saturday, December 30, 1939

The President

EXECUTIVE ORDER

AUTHORIZING THE INITIAL APPOINTMENT TO A CERTAIN POSITION IN THE WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR, WITHOUT COMPLIANCE WITH THE CIVIL SERVICE RULES, AND REVOKING IN PART EXECUTIVE ORDER NO. 8027 OF DECEMBER 23, 1938

By virtue of and pursuant to the authority vested in me by the provisions of paragraph Eighth of subdivision SECOND of section 2 of the Civil Service Act (22 Stat. 403, 404), it is hereby ordered that, subject to the establishment before the Civil Service Commission of requisite qualifications, the initial appointment to the position of Assistant to the Assistant Administrator in Charge of the Cooperation and Inspection Branch of the Wage and Hour Division in the Department of Labor may be effected without compliance with the competitive requirements of the Civil Service Rules: *Provided*, that the person so appomted shall not thereby acquire a competitive classified civil-service status.

Executive Order No. 8027 of December 23, 1938, entitled "Authorizing Initial Appointments to Certain Executive and Policy Forming Positions in the Wage and Hour Division in the Department of Labor without Compliance with the Civil Service Rules" is hereby revoked in so far as it relates to the positions of Director of Regional Offices, and Chief of Policies and Standards Section.

This order is recommended by the Secretary of Labor.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,
December 27, 1939.

[No. 8316]

[F. R. Doc. 39-4826; Filed December 28, 1939; 3:50 p. m.]

Rules, Regulations, Orders

TITLE 6—AGRICULTURAL CREDIT

CHAPTER I—FARM CREDIT ADMINISTRATION

AUTHORIZING CERTAIN OFFICIALS TO PERFORM THE DUTIES AND EXERCISE THE POWERS OF THE GOVERNOR OF THE FARM CREDIT ADMINISTRATION

1. Section 3.1 of Title 6, Code of Federal Regulations, as amended, is hereby amended to read as follows:

§ 3.1 *Authority of Deputy Governors to serve as Governor in the absence of the Governor.* Dr. A. G. Black, First Deputy Governor of the Farm Credit Administration, is hereby authorized and directed to perform the duties and exercise the powers of the Governor of the Farm Credit Administration in the absence of the Governor of the Farm Credit Administration.

"Mr Gerald E. Lyons, Deputy Governor of the Farm Credit Administration, is hereby authorized and directed to perform the duties and exercise the powers of the Governor of the Farm Credit Administration in the absence of the Governor of the Farm Credit Administration and in the absence of Dr. A. G. Black, First Deputy Governor of the Farm Credit Administration.

"Mr. Roy E. Green, Deputy Governor of the Farm Credit Administration, is hereby authorized and directed to perform the duties and exercise the powers of the Governor of the Farm Credit Administration in the absence of the Governor of the Farm Credit Administration, and in the absence of Dr. A. G. Black, First Deputy Governor of the Farm Credit Administration, and in the absence of Mr. Gerald E. Lyons, Deputy Governor of the Farm Credit Administration."

2. Farm Credit Administration Order No. 267, dated September 28, 1939 (4 F.R.

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THE PRESIDENT

RULES, REGULATIONS, ORDERS

(Continued on next page)

FEDERAL REGISTER

Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1 per month or $10 per year; single copies 10 cents each; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

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4095), is superseded by the provisions of this order.

3. This order shall be effective on and after December 27, 1939.

Done at Washington, D. C., this 27th day of December 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4827; Filed, December 28, 1939; 4:23 p. m.]

TITLE 7—AGRICULTURE

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

[ACP-1940-3]

PART 701—1940 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 3

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, the 1940 Agricultural Conservation Program Bulletin is hereby amended by inserting the following in lieu of paragraph (2) in subsection (b) of Section 701.101[1] to show the State cotton acreage allotments (calculated pursuant to Section 344 (c) (1) and including the additional acreage allotted to counties pursuant to Section 344 (e) of the Agricultural Adjustment Act of 1938) established for the purposes of said program:

(2) The State acreage allotments of cotton are as follows:

State:	*Acres*
Alabama	2,129,404
Arizona	189,726
Arkansas	2,154,551
California	391,664
Florida	76,424
Georgia	2,104,706
Illinois	4,900
Kansas	899
Kentucky	17,876
Louisiana	1,186,520
Mississippi	2,552,800
Missouri	379,092
New Mexico	110,076
North Carolina	882,456
Oklahoma	2,053,877
South Carolina	1,269,435
Tennessee	728,379
Texas	9,390,152
Virginia	50,295
Total	25,673,232

Done at Washington, D. C., this 28th day of December 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4834; Filed, December 29, 1939; 12:21 p.m.]

[ACP-1940-4]

PART 701—1940 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 4

Pursuant to the authority vested in the Secretary of Agriculture under Sections 7 to 17 of the Soil Conservation and Domestic Allotment Act, as amended, the 1940 Agricultural Conservation Program Bulletin approved September 6, 1939, as amended, is hereby further amended as follows:

Subparagraph (2) of paragraph (a) of Section 701.101[1] is hereby amended by the addition of the following sentence:

(1) The State acreage allotments of corn for each State in the commercial corn-producing area and the total acreage allotment for such area are as follows: Illinois, 6,513,876; Indiana, 3,225,400; Iowa, 8,193,223; Michigan, 392,095; Minnesota, 3,177,524; Missouri, 2,876,339; Nebraska, 5,905,316; Ohio, 2,396,291; South Dakota, 1,393,862; Wisconsin, 667,577; Kansas, 1,573,277; Kentucky, 323,220; Total, 36,638,000.

Subparagraph (3) of paragraph (a) of Section 701.101 is hereby amended by the addition of the following sentence:

The 1940 county corn acreage allotments shall be the 1940 county corn acreage allotments approved by the Secretary pursuant to the provisions of Title III of the Agricultural Adjustment Act of 1938, as amended.

Done at Washington, D. C. this 28th day of December 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4835; Filed, December 29, 1939; 12:21 p. m.]

PART 721—PROCLAMATIONS AND DETERMINATIONS RELATING TO CORN ALLOTMENTS

DETERMINATION OF COUNTY CORN ACREAGE ALLOTMENTS FOR 1940*

§ 721.203 *County corn acreage allotments for 1940.* Pursuant to the authority vested in the Secretary of Agriculture under Section 329 (a) of the Agricultural Adjustment Act of 1938, as amended, the corn acreage allotment for the commercial corn-producing area for 1940 as established by the proclamation dated November 25, 1939,[2] is hereby apportioned among the commercial corn-producing counties as follows:

Illinois: Adams, 63,411; Alexander, 17,733; Bond, 28,113; Boone, 38,682; Brown, 24,746; Bureau, 145,689; Calhoun, 14,629; Carroll, 51,240; Cass, 42,887; Champaign, 184,405; Christian, 92,408; Clark, 45,691; Clay, 37,107; Clinton, 34,568; Coles, 70,265; Cook, 42,774; Crawford, 38,408; Cumberland, 34,138; De Kalb, 111,851; De Witt, 70,246; Douglas, 68,459; Du Page, 31,098; Edgar, 87,252; Edwards, 20,838; Effingham, 37,757; Fayette, 57,984; Ford, 94,012; Fulton, 91,069; Gallatin, 33,742;

[1] 4 F.R. 3868 DI.

[1] 4 F.R. 3867 DI.

*Section 721.203 issued under authority contained in Section 329 (a), 52 Stat. 52; 7 U.S.C. 1329.

[2] 4 F.R. 4698 DI.

Greene, 58,842; Grundy, 80, 184; Hamilton, 29,698; Hancock, 76,512; Hardin, 8,642; Henderson, 50,679; Henry, 132,503; Iroquois, 203,925; Jackson, 33,325; Jasper, 45,749; Jersey, 28,229; Jo Daviess, 42,447; Johnson, 18,444; Kane, 72,615; Kankakee, 107,319; Kendall, 55,006; Knox, 99,550; Lake, 29,702; La Salle, 207,827; Lawrence, 35,227; Lee, 116,871; Livingston, 206,836; Logan, 103,211; McDonough, 80,318; McHenry, 77,521; McLean, 230,872; Macon, 94,246; Macoupin, 71,131; Madison, 53,689; Marion, 35,695; Marshall, 60,225; Mason, 66,663; Massac, 16,436; Menard, 41,165; Mercer, 80,631; Monroe, 22,013; Montgomery, 61,775; Morgan, 71,707; Moultrie, 53,073; Ogle, 104,441; Peoria, 71,923; Perry, 22,594; Piatt, 72,962; Pike, 69,700; Pope, 15,013; Pulaski, 17,107; Putnam, 22,670; Randolph, 31,539; Richland, 28,330; Rock Island, 50,021; Saint Clair, 42,983; Saline, 28,988; Sangamon, 121,900; Schuyler, 35,548; Scott, 31,595; Shelby, 91,870; Stark, 50,109; Stephenson, 65,694; Tazewell, 92,438; Union, 21,462; Vermilion, 140,528; Wabash, 23,049; Warren, 90,756; Washington, 28,958; Wayne, 50,582; White, 54,802; Whiteside, 104,589; Will, 115,963; Winnebago, 59,546; Woodford, 84,511; State, 6,513,876.

Indiana: Adams, 31,484; Allen, 56,957; Bartholomew, 38,351; Benton, 73,832; Blackford, 17,117; Boone, 56,649; Carroll, 48,788; Cass, 49,683; Clay, 27,503; Clinton, 56,469; Daviess, 39,075; Dearborn, 16,146; Decatur, 41,575; Delaware, 45,150; Dekalb, 26,794; Dubois, 24,095; Elkhart, 34,140; Fayette, 22,132; Fountain, 42,553; Franklin, 28,618; Fulton, 41,371; Gibson, 47,261; Grant, 46,770; Greene, 33,141; Hamilton, 50,798; Hancock, 41,576; Hendricks, 49,728; Henry, 49,250; Howard, 37,091; Huntington, 37,432; Jackson, 34,004; Jasper, 69,941; Jay, 35,385; Jennings, 19,116; Johnson, 38,398; Knox, 55,360; Kosciusko, 51,673; Lagrange, 31,023; Lake, 41,090; La Porte, 58,037; Lawrence, 21,899; Madison, 57,847; Marion, 32,096 Marshall, 43,666; Martin, 13,859; Miami, 41,671; Monroe, 15,940; Montgomery, 59,677; Morgan, 37,009; Newton, 53,191; Noble, 33,925; Orange, 20,076; Owen, 17,079; Parke, 36,716; Pike, 21,908; Porter, 36,811; Posey, 43,208; Pulaski, 46,408; Putnam, 39,475; Randolph, 55,267; Ripley, 28,236; Rush, 59,814; Saint Joseph, 36,768; Scott, 10,791; Shelby, 56,815; Spencer, 28,152; Starke, 29,847; Steuben, 20,675; Sullivan, 39,464; Tippecanoe, 67,144; Tipton, 36,971; Union, 18,927; Vanderburgh, 18,714; Vermillion, 27,061; Vigo, 40,136; Wabash, 43,103; Warren, 48,911; Warrick, 25,243; Washington, 26,543; Wayne, 44,324; Wells, 41,984; White, 73,895; Whitley, 28,598; State, 3,225,400.

Iowa: Adair, 85,834; Adams, 60,747; Allamakee, 36,734; Appanoose, 31,391; Audubon, 73,436; Benton, 108,822; Black Hawk, 82,913; Boone, 101,324; Bremer, 55,922; Buchanan, 83,358; Buena Vista, 106,925; Butler, 89,222; Calhoun, 107,462; Carroll, 102,758; Cass, 94,106; Cedar, 81,283; Cerro Gordo, 87,497; Cherokee, 99,007; Chickasaw, 60,985; Clark, 41,971; Clay, 96,625; Clayton, 63,853; Clinton, 101,292; Crawford, 120,625; Dallas, 102,420; Davis, 33,134; Decatur, 43,168; Delaware, 73,959; Des Moines, 47,813; Dickinson, 60,446; Dubuque, 56,053; Emmet, 67,619; Fayette, 81,416; Floyd, 76,317; Franklin, 103,215; Fremont, 113,799; Greene, 111,377; Grundy, 82,448; Guthrie, 88,776; Hamilton, 106,885; Hancock, 95,007; Hardin, 99,495; Harrison, 135,449; Henry, 51,061; Howard, 49,872; Humboldt, 80,317; Ida, 80,853; Iowa, 75,065; Jackson, 52,251; Jasper, 114,083; Jefferson, 46,142; Johnson, 80,349; Jones, 64,869; Keokuk, 77,228; Kossuth, 170,148; Lee, 35,519; Linn, 92,938; Louisa, 51,815; Lucas, 35,967; Lyon, 99,972; Madison, 71,563; Mahaska, 83,120; Marion, 72,515; Marshall, 91,095; Mills, 87,867; Mitchell, 60,653; Monona, 124,430; Monroe, 31,918; Montgomery, 75,318; Muscatine, 56,294; O'Brien, 98,978; Osceola, 68,320; Page, 89,748; Palo Alto, 97,514; Plymouth, 156,091; Pocahontas, 109,147; Polk, 85,172; Pottawattamie, 189,331; Poweshiek, 86,307; Ringgold, 55,219; Sac, 105,767; Scott, 60,589; Shelby, 110,453; Sioux, 136,772; Story, 110,017; Tama, 100,252; Taylor, 70,951; Union, 50,021; Van Buren, 31,769; Wapello, 40,712; Warren, 69,051; Washington, 76,879; Wayne, 46,088; Webster, 123,348; Winnebago, 63,438; Winneshiek, 65,671; Woodbury, 168,420; Worth, 54,067; Wright, 107,021; State, 8,193,223.

Michigan: Berrien, 25,277; Branch, 32,729; Calhoun, 32,169; Cass, 28,646; Hillsdale, 35,541; Jackson, 30,768; Kalamazoo, 23,605; Lenawee, 57,103; Monroe, 44,009; Saint Joseph, 30,888; Washtenaw, 37,007; Wayne, 14,353; and State, 392,095.

Minnesota: Big Stone, 40,974; Blue Earth, 97,050; Brown, 70,026; Carver, 29,307; Chippewa, 76,755; Cottonwood, 88,202; Dakota, 49,213; Dodge, 45,643; Faribault, 99,153; Fillmore, 56,623; Freeborn, 82,639; Goodhue, 48,116; Grant, 41,532; Hennepin, 27,459; Houston, 27,578; Jackson, 105,733; Kandiyohi, 72,419; Lac Qui Parle, 90,049; Le Sueur, 40,394; Lincoln, 59,561; Lyon, 100,370; McLeod, 46,198; Martin, 118,987; Meeker, 53,834; Mower, 71,485; Murray, 102,002; Nicollet, 45,864; Nobles, 113,468; Olmsted, 56,547; Pipestone, 67,004; Pope, 39,536; Redwood, 123,148; Renville, 120,316; Rice, 45,414; Rock, 77,620; Scott, 28,255; Sibley, 56,631; Stearns, 87,170; Steele, 45,990; Stevens, 57,424; Swift, 71,605; Traverse, 50,543; Wabasha, 30,657; Waseca, 46,936; Washington, 27,425; Watonwan, 63,690; Winona, 30,980; Wright, 51,644; Yellow Medicine, 98,355; State, 3,177,524.

Missouri: Adair, 29,745; Andrew, 45,657; Atchison, 105,954; Audrain, 73,434; Bates, 72,995; Benton, 32,488; Boone, 42,568; Buchanan, 34,725; Caldwell, 43,889; Callaway, 39,008; Cape Girardeau, 33,119; Carroll, 59,362; Cass, 65,050; Chariton, 59,171; Clark, 33,046; Clay, 30,710; Clinton, 45,049; Cooper, 37,274; Daviess, 48,066; De Kalb, 45,093; Dunklin, 49,184; Gentry, 44,352; Grundy, 32,209; Harrison, 50,356; Henry, 62,151; Holt, 69,954; Howard, 30,184; Jackson, 38,285; Johnson, 57,919; Knox, 37,515; Lafayette, 62,113; Lewis, 30,247; Lincoln, 39,382; Linn, 41,637; Livingston, 38,646; Macon, 56,614; Marion, 30,263; Mercer, 27,952; Mississippi, 46,030; Moniteau, 21,420; Monroe, 50,543; Montgomery, 34,058; New Madrid, 66,692; Nodaway, 116,106; Pemiscot, 40,008; Perry, 18,256; Pettis, 52,884; Pike, 44,057; Platte, 32,501; Putnam, 25,301; Ralls, 35,883; Randolph, 32,072; Ray, 57,918; St. Charles, 28,942; St. Clair, 43,393; Saline, 78,032; Schuyler, 14,110; Scotland, 27,161; Scott, 38,287; Shelby, 39,928; Stoddard, 64,094; Vernon, 68,524; Worth, 24,773; State, 2,876,339.

Nebraska: Adams, 70,374; Antelope, 139,505; Boone, 123,650; Buffalo, 136,164; Burt, 101,266; Butler, 98,775; Cass, 108,601; Cedar, 135,521; Chase, 88,059; Clay, 81,243; Colfax, 68,379; Cuming, 107,114; Custer, 246,622; Dakota, 46,893; Dawson, 119,833; Dixon, 90,289; Dodge, 98,193; Douglas, 55,733; Fillmore, 84,562; Franklin, 74,074; Frontier, 114,493; Furnas, 101,795; Gage, 115,889; Gosper, 71,154; Greeley, 70,761; Hall, 65,648; Hamilton, 89,459; Harlan, 79,411; Hayes, 73,463; Hitchcock, 63,425; Howard, 67,189; Jefferson, 65,974; Johnson, 49,871; Kearney, 63,040; Knox, 148,322; Lancaster, 125,655; Lincoln, 159,127; Madison, 110,098; Merrick, 60,406; Nance, 71,978; Nemaha, 66,275; Nuckolls, 82,607; Otoe, 100,245; Pawnee, 52,295; Perkins, 113,317; Phelps, 88,394; Pierce, 99,209; Platte, 129,145; Polk, 79,725; Redwillow, 80,952; Richardson, 83,559; Saline, 69,414; Sarpy, 46,739; Saunders, 145,453; Seward, 93,402; Sherman, 69,182; Stanton, 74,627; Thayer, 73,263; Thurston, 82,237; Valley, 79,614; Washington, 71,583; Wayne, 91,853; Webster, 81,353; York, 108,865; State, 5,905,316.

Ohio: Adams, 26,145; Allen, 37,187; Ashland, 22,489; Auglaize, 41,283; Brown, 35,804; Butler, 44,767; Champaign, 46,114; Clark, 43,427; Clermont, 32,597; Clinton, 50,688; Coshocton, 18,717; Crawford, 34,036; Darke, 72,504; Defiance, 31,539; Delaware, 36,681; Erie, 16,716; Fairfield, 44,488; Fayette, 53,913; Franklin, 45,693; Fulton, 39,917; Greene, 48,588; Hamilton, 13,957; Hancock, 56,449; Hardin, 47,322; Henry, 50,015; Highland, 46,778; Holmes, 20,034; Huron, 32,737; Jackson, 9,844; Knox, 30,774; Licking, 43,103; Logan, 40,877; Lorain, 23,368; Lucas, 21,603; Madison, 59,913; Marion, 43,498; Medina, 21,441; Mercer, 45,575; Miami, 47,791; Montgomery, 42,056; Morrow, 27,505; Muskingum, 20,865; Ottawa, 17,992; Paulding, 45,360; Perry, 15,000; Pickaway, 60,642; Pike, 20,629; Preble, 49,579; Putnam, 53,480; Richland, 27,063; Ross, 52,358; Sandusky, 38,978; Scioto, 20,786; Seneca, 49,030; Shelby, 41,555; Stark, 26,303; Union, 40,339; Van Wert, 47,569; Warren, 39,336; Wayne, 36,566; Williams, 32,297; Wood, 75,435; Wyandot, 37,196; State, 2,396,291.

South Dakota: Bon Homme, 74,205; Brookings, 98,143; Clay, 75,032; Deuel, 44,894; Grant, 47,429; Hamlin, 43,605; Hanson, 55,235; Hutchison, 89,074; Kingsbury, 76,024; Lake, 79,052; Lincoln, 102,619; McCook, 82,303; Minnehaha, 128,884; Moody, 80,273; Roberts, 67,586; Turner, 92,549; Union, 86,517; Yankton, 70,438; State, 1,393,862.

Wisconsin: Columbia, 61,362; Crawford, 22,054; Dane, 105,534; Grant, 80,181; Green, 50,111; Iowa, 40,286; Jefferson, 44,921; Lafayette, 53,943; Richland, 24,171; Rock, 79,177; Sauk, 50,293; Walworth, 55,544; State, 667,577.

Kansas: Anderson, 38,741; Atchison, 40,780; Brown, 79,937; Coffey, 42,389; Doniphan, 51,880; Douglas, 30,735; Franklin, 42,033; Jackson, 64,687; Jefferson, 47,060; Jewell, 100,923; Johnson, 34,845; Leavenworth, 30,063; Linn, 43,795; Marshall, 106,436; Miami, 51,437; Nemaha, 97,852; Norton, 97,148; Osage, 59,114; Phillips, 94,628; Pottawatomie, 57,831; Republic, 87,842; Riley, 37,392; Shawnee, 40,810; Smith, 106,562; Washington, 88,357; State, 1,573,277.

Kentucky: Ballard, 26,142; Carlisle, 16,456; Crittenden, 22,585; Daviess, 38,211; Fulton, 21,423; Hancock, 11,407; Henderson, 55,539; Hickman, 25,616; Livingston, 21,937; McLean, 20,036; Union, 37,504; Webster, 26,364; State, $323,220.

Done at Washington, D. C. this 28th day of December 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4837; Filed, December 29, 1939; 12:22 p. m.]

PART 727—FLUE-CURED TOBACCO

I, H. A. Wallace, Secretary of Agriculture, acting under and pursuant to, and by virtue of the authority vested in me by section 313 of the Agricultural Adjustment Administration Act of 1938, as amended, do hereby determine that:

§ 727.203 *Determination of the Apportionment and Adjustment of the National Marketing Quota Among States and Determination of State Yields Per Acre, and State Acreage Allotments for Flue-cured Tobacco for the 1940-41 Marketing Year.* The national quota for the 1940-41 marketing year, as proclaimed by the Secretary of Agriculture on September 25, 1939,[2] is hereby apportioned and adjusted[1] among the states, and state yields per acre and state acreage allotments are hereby established in accordance with the following table: (Sec. 313, 52 Stat. 46; 7 U.S.C. Sup. IV, 1312, as amended by 53 Stat. 1261).

States and reserve pursuant to section 313 (c)	Marketing quotas	Yields per acre	Acreage allotments
	1,000 pounds	*Pounds*	*Acres*
Virginia	57,318	786	72,924
North Carolina	[1] 446,861	877	[1] 509,534
South Carolina	[1] 81,060	950	[1] 85,326
Georgia	65,790	970	67,825
Florida	10,866	894	12,154
Alabama	[1] 427	854	[1] 500
Reserve, section 313 (c)	1,236	885	1,397
Total United States	663,558	885	749,660

[1] Adjusted in accordance with the provisions of section 313 (a) and 313 (c). Includes poundage and acreage to be allotted under the provisions of section 313 (g).
[2] 4 F.R. 4045 DI.

Done at Washington, D. C., this 28th day of December, 1939. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4838; Filed, December 29, 1939; 12:22 p. m.]

PART 724—BURLEY TOBACCO

I, H. A. Wallace, Secretary of Agriculture, acting under and pursuant to, and by virtue of, the authority vested in me, by Sec. 312 of the Agricultural Adjustment Act of 1938, as amended, do hereby make the following proclamation:

§ 724.202 *Results of referendum.* In the referendum of farmers engaged in the production of the 1939 crop of Burley tobacco, conducted by the Secretary of Agriculture on the 21st day of November, 1939, to determine whether such farmers were in favor of or opposed to the national marketing quota for the marketing year beginning October 1, 1940, the total number of votes cast was 118,527; and of the total number so cast 98,741 votes, or 83.3 percent, were in favor of, and 19,786 votes, or 16.7 percent, were opposed to such marketing quota. Therefore, the national marketing quota for the year beginning October 1, 1940, proclaimed by the secretary of Agriculture on the 28th of October 1939, will continued in effect. (Sec. 312, 52 Stat. 46)

Done at Washington, D. C., This 28th day of December, 1939, Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4839; Filed, December 29, 1939; 12:22 p. m.]

TITLE 9—ANIMALS AND ANIMAL PRODUCTS

CHAPTER I—BUREAU OF ANIMAL INDUSTRY

SUBCHAPTER C—INTERSTATE SHIPMENT OF ANIMALS AND POULTRY

[B.A.I. Administrative Notice 1]

§ 71.11[1] *Cresylic disinfectant as permitted disinfectant; specifications.* The following specifications will be employed for determining the suitability of cresylic disinfectant for use under the provisions of B.A.I. Order 309, regulation 1, section 6, paragraph 2, item 3:[2]

(a) The product shall remain a uniform liquid when held at 0° C. (32° F.) for 3 hours (chill test).

(b) The product shall dissolve completely in 30 parts of distilled water at 25° C. (77° F.) within 2 minutes (solution-rate test), producing a solution entirely free from globules and not more than faintly opalescent (solubility-degree test).

(c) The product shall contain not more than 25 percent of inert ingredients (water and glycerin), not more excess alkali than the equivalent of 0.5 percent of sodium hydroxide, and not less than 21 percent of soap exclusive of water, glycerin, and excess alkali.

(d) The product shall contain not less than 50 percent and not more than 53 percent of total phenols. It shall contain less than 5 percent of benzophenol (C_6H_5OH).

The methods of determining compliance with the above specifications will be those described in United States Department of Agriculture Bulletin 1308, Chemical and Physical Methods for the Control of Saponified Cresol Solutions, so far as they are applicable.

Any suitable glyceride, fat acid, or resin acid may be used in preparing the soap, but not all are suitable nor are all grades of a single product equally suitable. Also various grades of commercial cresylic acid differ in suitability. Therefore, manufacturers are cautioned to prepare a trial laboratory batch from every set of ingredients and to prove its conformity with specifications (a) and (b) above, before proceeding with manufacture on a factory scale.

This notice, which is based on B.A.I. Order 309, regulation 1, section 6, paragraph 2, item 3, as amended by amendment 4 dated November 15, 1939,[3] shall be effective on and after January 2, 1940. It supersedes Circular Letter 1369. The specifications herein differ from those contained in Circular Letter 1369 in that the name of the product and the minimum specifications therefor now conform with Commercial Standard CS71-38 of the National Bureau of Standards.

[SEAL] J. R. MOHLER,
Chief of Bureau.

[F. R. Doc. 39-4840; Filed, December 29, 1939; 12:22 p. m.]

[1] The numbering of the sections of B.A.I. Administrative Notices conforms to the numbering of title 9, chapter I, of the Code of Federal Regulations.
[2] 9 CFR 71.10 (b) (3).

TITLE 19—CUSTOMS DUTIES

CHAPTER I—BUREAU OF CUSTOMS

[T. D. 50053]

CUSTOMS REGULATIONS AMENDED

ARTICLES 148, 220, 303, 387, 714, 715, 716, 717, 766, 801, AND 1233 OF THE CUSTOMS REGULATIONS OF 1937 AMENDED[1]

To Collectors of Customs and Others Concerned:

The Customs Regulations of 1937[2] are hereby amended as follows:

Paragraph (c) of article 148 [Sec. 2.19 (c)] is amended by deleting the words

[1] This document affects 19 CFR 2.19, 3.1, 6.20, 7.21, 11.18, 11.19, 11.20, 11.21, 11.49, 13.1, and 22.18.
[2] 2 F.R. 1444, 1562, 1643.
[3] 4 F.R. 4596 DI.

"shall be made by the party in interest" and substituting therefor the words "may be required by the collector". (Secs. 447, 624, 46 Stat. 714, 759; 19 U.S.C. 1447, 1624.)

Article 220 [Sec. 3.1], as amended by T.D. 49658,[3] is further amended by redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively, and inserting a new paragraph (c) reading as follows:

(c) [Sec. 3.1 (b)] When entry is filed the permit to release may be accepted as the permit to unlade or to proceed farther inland. When discharge or landing of any merchandise, passengers, or baggage is desired before entry is made, a permit to unlade on customs Form 3851 or customs Form 3853–A shall be required. (Sec. 459, 46 Stat. 717, sec. 10 (a), 52 Stat. 1082; 19 U.S.C. 1459 and Sup. IV. Sec. 624, 46 Stat. 759; 19 U.S.C. 1624)

Article 303 [Sec. 6.20] is amended by adding a new paragraph (c) reading as follows:

(c) [Sec. 6.20] Such certificate shall be filed in duplicate and the collector shall securely attach both copies thereof to the invoice and summary sheet. Such documents shall be sent to the appraiser who shall note on the duplicate copy of the certificate, when the initial advance cited by the importer was made at the same port, whether the importer's citation of the pending case is correct. If such citation is erroneous, the proper one should be indicated thereon. The duplicate copy of the certificate, with the name of the port of entry endorsed thereon, shall be detached from the invoice and summary sheet and forwarded, together with a notice list on customs Form 6447, to the Assistant Attorney General, Reappraisement Division, 201 Varick Street, New York, N. Y., at the time the invoice, summary sheet, and original certificate are returned to the collector. (Secs. 503 (b), 624, 46 Stat. 731, 759; 19 U.S.C. 1503 (b), 1624)

Paragraph (a) of article 387 [Sec. 7.21 (a)] is amended to read as follows:

(a) Articles imported into the United States from foreign countries may be exported in the registered or ordinary Postal Union (regular) mails or in registered, insured, or ordinary parcel post, without the payment of duties that may have accrued thereon, provided the articles have remained continuously in the custody of the Government (customs or postal authorities), and provided the packages containing such articles are inspected and mailed under customs supervision. An appropriate receipt or certificate of mailing (postal) for each package shall be delivered to the customs officer to be attached to his report of the shipment. (Sec. 624, 46 Stat. 759; 19 U.S.C. 1624. R.S. 251; 19 U.S.C. 66)

The center heading above article 714 [Sec. 11.18] is amended by adding thereto the words "AND SIRUPS".

Article 714 [Sec. 11.18] is amended by inserting "or sirups" after the word "molasses" wherever it appears in said article, and by inserting the following before the period at the end of the second sentence:

and stating accurately the distance between the calibrated part of the tank and any fixed gauging point that may have been established atop the tank. (Sec. 624, 46 Stat. 759; 19 U.S.C. 1624. R.S. 251; 19 U.S.C. 66)

Article 715 [Sec. 11.19] is amended by inserting "or sirup" after the word "molasses" wherever it appears in said article. (Sec. 624, 46 Stat. 759; 19 U.S.C. 1624. R.S. 251; 19 U.S.C. 66)

Article 716 [Sec. 11.20] is amended to read as follows:

ART. 716 [Sec. 11.20] *Tank gauging.* (a) The report of the gauging of the molasses or sirup shall show the number of gallons of such molasses or sirup and the temperature thereof in degrees centigrade at the time of gauging. Report as to gauge and temperature shall be made to the examiner (customs Form 5991). When a fixed gauge point has been established atop any tank and an accurate statement of the distance between such gauge point and the calibrated part of the tank is on file in the customhouse, as provided in article 714 [Sec. 11.18], the amount of molasses or sirup in any such tank must be measured by one of the two methods described in paragraph (b). In the event a tank has no such established gauge point the amount of molasses or sirup in the tank must be measured by the second method described in paragraph (b).

(b) The two methods of gauging are as follows:

1. *Outage (ullage) method.* A steel tape graduated in inches and eighths of inches with plumb bob attached is lowered from the gauge point atop the tank to below the surface of the liquid in the tank. The measurement shown on the tape at the gauge point is then noted and such measurement, less the length of the tape which was wet by immersion in the liquid, represents the distance from the surface of the liquid to the gauge point. Deduct from this measurement the distance from the gauge point to the top of the calibrated part of the tank and the result is the "ullage" or depth of the unfilled part of the tank. Deduct the "ullage" or depth of the unfilled part of the tank from the established height of the calibrated part of the tank and the result is the depth of the liquid in the tank.

2. *Innage method.* The depth of the liquid in the tank is measured with a sectional steel rod having a removable brass scale expressed in inches and eighths of inches. The rod is let down until it touches bottom. The figure at the wet part of the brass scale is then read and the depth of the liquid is determined.

(c) If there is foam present the gauging, under either method, shall be made with the use of a "foam can" which shall be furnished by the owners or operators of the tanks to be gauged. The "foam can" shall be of sufficient length and weight to penetrate through the foam into the molasses and shall be of sufficient width or diameter to allow for the free passage of the plumb bob or gauging rod. There shall be a removable plug at the bottom of the can so that when the can has penetrated through the foam into the molasses this plug may be removed to permit the molasses to flow into the can to the level of the molasses in the tank, the sides of the can excluding the foam. The top of the can shall be fitted with suitable hooks for attaching ropes for lowering. When the foam can is used, the plumb bob or gauging rod is lowered through the can and the gauge is registered without the presence of the foam. This procedure shall be followed on immediate gauging as well as gauging after the lapse of the 20-day period in all cases where foam is present. No allowance shall be made for occluded air or other gases in the body of the molasses or sirup. The depth of the imported molasses or sirup having been ascertained in inches, the result will be multiplied by the number of gallons per inch in height previously ascertained when the storage tank was measured empty. (Sec. 624, 46 Stat. 759; 19 U.S.C. 1624. R.S. 251; 19 U.S.C. 66)

Article 717 [Sec. 11.21] is amended by inserting "or sirup" after the word "molasses" wherever it appears in said article. (Sec. 624, 46 Stat. 759; 19 U.S.C. 1624. R.S. 251; 19 U.S.C. 66)

Article 766 [Sec. 11.49] is amended by deleting paragraph (c) (2) [Sec. 11.49 (c) (2)] and redesignating paragraph (c) (3) [Sec. 11.49 (c) (3)] as paragraph (c) (2) [Sec. 11.49 (c) (2)]. (Pars. 1101–1104: sec. 1, 46 Stat. 646, 647; 19 U.S.C. 1001)

Paragraph (e) of article 801 [Sec. 13.1 (e)] is deleted. (Sec. 563 (a), 46 Stat. 746; 19 U.S.C. 1563 (a)).

Paragraphs (d), (e), (g), and (i) of article 1233 [Sec. 22.18 (d), (e), (g), and (i)] are amended to read as follows, respectively:

[3] 3 F.R. 1808 DI.

(d) [Sec. 22.18 (d)] Carriers of merchandise must purchase quantity supplies of "in bond" and "in transit" seals directly from the approved manufacturers of these seals. Carriers may purchase small emergency supplies of "in bond" and "in transit" seals from collectors of customs who are authorized to keep a supply of these seals on hand for official use and for sale. Orders for the purchase of quantity supplies of "in bond" and "in transit" seals shall be prepared by the carrier and shall specify the kind and quantity of seals desired, the name of the port at which they are to be used, and the name and address of the consignee to whom the seals are to be shipped. Each order shall be confined to seals for use at one port, and shall be forwarded to the collector of customs at the headquarters port of the customs district in which the port is located, who will submit the order, with his recommendation as to the need for the seals ordered, to the Bureau of Customs for authorization and transmission to the manufacturer, if approved.

(e) [Sec. 22.18 (e)] Collectors of customs shall requisition their supplies of "in bond", "in transit", and "customs" seals on Purchase Authority Form 1, which must be forwarded to the Bureau for approval. The requisition shall specify the number and kind of seals desired and shall give the name of the headquarters port which is to be stamped on the seals.

(g) [Sec. 22.18 (g)] Seals furnished various ports in the collection district from the supply maintained at the headquarters port shall be stamped with the name of the headquarters port and an accurate record of the quantity and kind of seals transferred, including the symbol or serial numbers of the seals, shall be maintained at both the sending and receiving ports.

(i) [Sec. 22.18 (i)] "In bond" seals may be purchased only by customs bonded carriers; "in transit" seals may be purchased by bonded and other carriers of merchandise; uncolored "customs" seals may not be purchased by private interests and may be furnished for authorized use without charge. "In bond" and "in transit" seals sold by collectors of customs shall be charged for at the rate of 5 cents per seal. Proceeds from the sale of "in bond" and "in transit" seals shall be accounted for as "miscellaneous receipts" and shall be deposited under symbol No. 7820, "sale of equipment." (Sec. 624, 46 Stat. 759; 19 U.S.C. 1624. R.S. 251; 19 U.S.C. 66)

[SEAL] W. R. JOHNSON,
Acting Commissioner of Customs.

Approved: December 27, 1939.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39-4841; Filed, December 29, 1939; 12:44 p. m.]

TITLE 24—HOUSING CREDIT

CHAPTER V—FEDERAL HOUSING ADMINISTRATION

PART 501—CLASS 1 AND CLASS 2 PROPERTY IMPROVEMENT LOANS UNDER SECTION 2, TITLE I OF THE NATIONAL HOUSING ACT, AS AMENDED, EFFECTIVE JULY 1, 1939*†

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§ 501.1 *Citation.* These Regulations may be cited and referred to as "Regulations effective January 1, 1940, of the Federal Housing Administrator governing the insurance of qualified lending institutions against loss resulting from Class 1 and Class 2 loans made under the provisions of Title I, Section 2, of the National Housing Act, as amended."*† [Reg. I]

§ 501.2 *Definitions.* As used in these Regulations—

(a) The term "owner" includes, in addition to owners in fee, life tenants and persons holding an equity under a mortgage, trust or contract.

(b) The term "note" includes a note, bond, mortgage, or other evidence of indebtedness.

(c) The term "payment" includes a deposit to an account or fund.

(d) The term "installment payment" includes that deposit to an account or fund which represents the partial repayment of an advance of credit.

(e) The term "loan" includes any loan, advance of credit, or purchase of an obligation representing a loan or advance of credit for the purpose of financing eligible repairs, alterations or improvements as authorized by the National Housing Act, as amended, effective July 1, 1939, and by these Regulations.

(f) The term "Administrator" means the Federal Housing Administrator.

(g) The term "borrower" means one who is an eligible owner or lesee of real property to be improved pursuant to the provisions of the Act and who applies for and receives an advance of credit in reliance upon the provisions of the Act.

(h) The term "Act" means the National Housing Act, as amended, effective July 1, 1939.

(i) The term "Contract of Insurance" includes all of the provisions of these Regulations and of the applicable provisions of the Act.

(j) The term "insured institution" means any bank, trust company, personal finance company, mortgage company, building and loan association, installment lending company or other such financial institution which the Administrator has found to be qualified by experience or facilities and has approved as eligible for credit insurance and to which he has issued a Contract of Insurance effective July 1, 1939.

(k) The term "Class 1 loan" means any loan which is for the purpose of financing the repair, alteration or improvement of an existing structure or of the real property in connection therewith, exclusive of the building of new structures.

(l) The term "Class 2 (a) loan" means any loan which is for the purpose of financing the construction of a new structure which is not to be used in whole or in part either for residential or agricultural purposes.

(m) The term "Class 2 (b) loan" means any loan which is for the purpose of financing the construction of a new structure for use in whole or in part for agricultural purposes.

(n) The term "Class 2 loan" includes both "Class 2 (a)" and "Class 2 (b)" loans as defined in paragraphs (l) and (m) of this section.

(o) The term "Administration" means Federal Housing Administration.*† [Reg. II]

§ 501.3 *Eligible notes.* Promissory notes in order to be eligible for insurance:

(a) Shall bear the genuine signature, as maker, of an owner of the real property to be improved or of a lessee thereof under a lease expiring not less than six calendar months after the maturity of the loan or advance of credit.

(b) Shall be in a form which is valid and enforceable in the jurisdiction in which they are issued.

(c) Shall be payable in equal monthly, semi-monthly or weekly installments. The final installment may be slightly more or less than the other installments, subject to such exceptions as may be made by the Administrator. Notes may not provide for a first payment less than six days nor more than two calendar months from the date of the note. However, if fifty-one percent or more of the income of the maker is derived directly from the sale of agricultural crops, commodities, or livestock produced by him, a note may be made payable in install-

*§§ 501.1 to 501.16, inclusive, issued under the authority contained in Public, No. 111—76th Congress (H.R. 5323), Section 2.

†The sources of §§ 501.1 to 501.21, inclusive, is regulations governing Class 1 and Class 2 Property Improvement loans under Sec. 2, Title I of the National Housing Act, as amended, effective January 1, 1940.

ments corresponding to income periods shown on the credit statement. In such cases, the first payment must be made within twelve months of the date of the note and at least one payment must be made during each calendar year thereafter and the proportion of total principal to be paid in later years must not exceed the proportion of total principal payable in earlier years.

(d) Shall contain a provision for acceleration of maturity, either automatic or at the option of the holder, in the event of default in the payment or any installment upon the due date thereof.

(e) Shall not have a final maturity in excess of three years and thirty-two days from the date thereof in the case of Class 1 and Class 2 (a) loans, nor in excess of ten years and thirty-two days in the case of Class 2 (b) loans, provided that Class 2 (b) loans secured by a first mortgage, first deed of trust, or other security instrument constituting a first lien upon the improved property may have a final maturity not in excess of fifteen years and one calendar month.

(f) May provide for a late charge, to be paid by the maker, not to exceed five cents (5¢) for each $1.00 of each installment more than fifteen days in arrears. In lieu of late charges, notes may provide for interest on past due installments at a rate not in excess of the contract rate in the jurisdiction in which the note is drawn. No late charge or interest on a past due installment may be accrued in excess of $5.00. The borrower must be billed for the penalties collected as such, and evidence of such billing must be in the file if claim is made under the Contract of Insurance.

(g) May be in a series provided each is of an equal amount as provided in this section and that each note indicates on its face that it is one of a series signed by the same maker.*† [Reg. III]

§ 501.4 *Maximum loan.* (a) A loan shall not involve a principal amount, exclusive of financing charges to the borrower in excess of $2,500.

(b) No loan shall increase the principal amount outstanding at any one time, on all loans made under Title I of the Act effective July 1, 1939 with respect to any one piece of property to an amount in excess of $2,500 exclusive of financing charges to the borrower.

(c) One borrower may obtain any number of loans to improve any number of separate pieces of property, subject to the credit requirements contained in Section 501.6.*† [Reg. IV]

§ 501.5 *Maximum permissible financing charges.* (a) The maximum permissible financing charge which may be paid by the borrower for interest, discount and fees of all kinds in connection with the transaction may not be in excess of an amount equivalent to $5.00 discount per $100 original face amount of a one-year note, to be paid in equal monthly installments, calculated from the date of the note. Such charges correctly based on tables of calculations issued by the Federal Housing Administrator are deemed to comply with this section.

(b) If the insured institution in purchasing a note takes the maximum charge permitted by this section, but employs a "holdback" and does not advance the entire proceeds of the note to the seller, it shall calculate its financing charge on the amount advanced and credit to the account of the seller the difference between the financing charge calculated on the face amount of the note and the financing charge calculated on the amount advanced.

(c) The acceptance of a voluntary payment of one or more installments prior to due date shall not be construed as increasing the maximum permissible financing charge as provided in paragraph (a) of this section. However, if the entire balance outstanding on the loan is paid in advance the insured institution must make a rebate as follows:

If the maximum permissible financing charge in connection with the transaction is in an amount equivalent to $5.00 discount as provided in paragraph (a) of this section, the insured institution shall make a rebate at a rate not less than 5% per annum of the amounts so paid in advance of their due dates. If a lesser charge has been taken, the rebate shall be at not less than a proportional rate.

(d) An increase in the ratio of the charge to the average amount outstanding on the debt over the maximum provided in this Regulation, which increase results from the first payment falling due less than thirty days after the date of the note as provided in § 503.3, shall not be deemed to be in conflict with this section.*† [Reg. V]

§ 501.6 *Credits.* (a) The insured institution shall obtain a signed and dated Credit Statement-Application from the borrower, on a form approved by the Administrator. The Credit Statement-Application must, in the judgment of the insured institution, clearly show the borrower to be solvent with reasonable ability to pay the obligation and in other respects a reasonable credit risk.

(b) A separate Credit Statement-Application is required in connection with each loan made or note purchased.

(c) An insured institution acting in good faith may rely upon the statements of the borrower who signs the Credit Statement-Application. The Administrator does not place upon the insured institution the burden of verifying the truth of any such statements. Even if such statements are investigated after the loan is made and found to be false, this will not affect in any way the eligibility of the note for insurance. However, any borrower making false statement or misusing the funds, or any dealer, contractor, or lender who knowingly assists in such a violation, may be committing a Federal offense and will be subject to the penal provisions of the National Housing Act. In all cases where the insured institution discovers a material misstatement in the Credit Statement-Application, or misuse of the funds, it must promptly report such a discovery to the Administrator.

(d) A loan shall not be made to a borrower who is delinquent at the time the loan is made, as to either principal or interest, with respect to an obligation owing to or insured by any department or agency of the Federal Government.

(e) The prior credit approval of the Administrator shall be obtained on all loans which increase the net amount outstanding, exclusive of financing charges, to any individual borrower to an amount in excess of $2,500 with respect to any obligation incurred pursuant to the provisions of Title I of the National Housing Act since July 1, 1939.*† [Reg. VI]

§ 501.7 *Eligible improvements.* (a) A loan must be for the purpose of financing eligible improvements within the United States, its Territories and Possessions, commenced on or after July 1, 1939 and prior to July 1, 1941, in reliance upon the credit facilities afforded by Title I of the National Housing Act as approved June 3, 1939.

(b) The proceeds of a loan shall be used only to finance alterations, repairs and improvements upon urban, suburban or rural real property (including the restoration, rehabilitation, rebuilding and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, cyclone, flood or other catastrophe).

(c) The proceeds of a loan shall not be used to finance the cost of completing an unfinished structure.

(d) The proceeds of a Class 1 loan shall be used only to finance the cost of alterations, repairs and improvements upon or in connection with existing structures. The term "existing structure" means a completed building that has or had a distinctive functional use.

(e) The proceeds of a Class 2 loan shall not be used to supplement another loan or advance of credit not reported for insurance, the payment of which is secured by a prior lien created in connection with the building of such new structure.

(f) The proceeds of a loan shall not be used for the purchase of land.

(g) The proceeds of a loan may be used to pay for architectural and engineering services performed in connection with eligible alterations, repairs or improvements financed in accordance with these Regulations.

(h) The proceeds of a loan shall not be used for the purpose of refinancing existing obligations not previously reported for insurance pursuant to these Regulations.

(i) Where any doubt exists as to the eligibility of a transaction which is to be financed with an insured loan, the

facts of the case should be submitted to the Administrator for a decision and ruling.*† [Reg. VII]

§ 501.8 Completion certificate—Statements.

(a) An insured institution may not disburse the proceeds of a loan to one other than the borrower or to the borrower and another jointly until it has first:

(1) Obtained a Completion or Installation Certificate signed by the borrower in the following, or a substantially similar, form:

BORROWER'S COMPLETION CERTIFICATE [1]

Notice to Borrower — Do not sign this Certificate until the work is satisfactorily completed.

Dated at _____, _____, 19__

I (we) the undersigned hereby certify that all articles and materials have been furnished and installed and the work satisfactorily completed on premises at _____ in accordance with my application for a loan dated _____ pursuant to the provisions of Title I of the National Housing Act, as amended.

(Signature) _____

_____

(2) Obtained a statement signed by the dealer, contractor or applicator in the following, or a substantially similar, form:

DEALER/CONTRACTOR/APPLICATOR STATEMENT

_____ 19__

To The _____ (lending institution)
of _____

In consideration of your accepting the note of _____ (Name of borrower(s)) for $_____, dated _____, We (I) hereby certify that all articles and materials contracted for have been furnished and installed and the work fully completed, that the signature(s) on the note and Completion Certificate are genuine, that the Completion or Installation Certificate was signed after the articles and materials contracted for had been furnished and installed and the work fully completed.

(Signature) _____
(Name)

_____
(Title)

(3) A written authorization signed by the borrower authorizing payment of the proceeds to the person to whom paid, in the following, or a substantially similar, form:

BORROWER'S AUTHORIZATION FORM

_____ 19__

I (we) hereby authorize and direct the _____ (financial institution) to pay $_____ of the proceeds of my (our) note dated _____, for $_____ to _____.

(Signature) _____

_____

(b) For the purpose of this section, if there are two or more eligible borrowers involved in the transaction only one signature is required on the Completion Certificate or Authorization Form.*† [Reg. VIII]

§ 501.9 *Refinancing.* (a) New obligations to liquidate loans previously reported for insurance pursuant to Title I of the Act effective July 1, 1939 which may or may not include an additional amount advanced will be covered by insurance, provided:

(1) They meet the requirements of all applicable regulations;

(2) Are reported to the Administrator on the proper form within 31 days from date of execution;

(3) Have a maturity not in excess of the maximum permitted under these Regulations from the date of the original obligation;

(4) If an additional advance is made, the full unearned charge on the original note shall be refunded to the borrower;

(5) If no additional advance is made, the full unearned charge on the original note shall be refunded to the borrower, except that a handling charge not in excess of $2.00 may be assessed to the borrower;

(6) They are evidenced by notes which meet with the requirements of § 501.3 and other applicable Regulations.

(b) An agreement to defer payments on a note previously reported for insurance under these Regulations without rewriting the note will not affect the insurance coverage on the loan provided:

(1) That such agreement is evidenced in writing;

(2) That payments shall not be deferred for more than five months from the due date of the last fully-paid installment;

(3) That such agreement shall not extend the final maturity of the obligation beyond the maturity date of the obligation as provided by its original terms;

(4) That if the lending institution assesses the borrower for the cost of such deferment, such charge may not be in excess of an equivalent amount of late charges as provided in Section 501.3 (f)*† [Reg. IX]

§ 501.10 *Report of loans.* Loans shall be reported on the proper form to the Federal Housing Administration at Washington, D. C., within 31 days from the date of the note or date upon which it was purchased. Any loan refinanced as provided in § 501.9 shall likewise be reported on the proper form within 31 days from the date of refinancing.*† [Reg. X]

§ 501.11 *Claims.* (a) Claim for reimbursement for loss on a qualified loan shall be made as provided in this paragraph.

(1) Claim for reimbursement for loss on a qualified loan may be made to the Administrator after default on any installment, provided demand has been made upon the debtor for the full unpaid balance.

(2) For the purpose of this paragraph, any payment received on an account, including payments on a judgment predicated thereon, shall be applied to the earliest unpaid installment, and whenever any installment is six months in arrears claim shall be made within 31 days.

(3) In the case of yearly installment notes, whenever an installment is twelve months in arrears claim must be made within 31 days thereafter.

(4) Upon presentation to him of the facts of a particular case within the allowable claim period prescribed in this paragraph, the Administrator may, in his discretion, extend the time within which claim must be made.

(b) Subject to § 501.12, claim may be made only for loss sustained by the insured institution itself, and may include:

(1) Net unpaid amount of advance actually made or the actual purchase price of the note, whichever is the lesser;

(2) Uncollected earned interest (after default interest is not to be claimed at a rate to exceed 4% per annum and will be calculated to the date the claim is approved for payment);

(3) Uncollected court costs, including fees paid for issuing, serving and filing summons;

(4) Attorney's fees not exceeding 15% of the amount collected by the attorney on the defaulted note;

(5) Handling fee of $5 for each loan, if judgment is secured, plus 5% of amounts collected subsequent to return of unsatisfied property execution.

(6) An insured institution may not waive its claim against the borrower for attorney fees and subsequently call upon the Administrator for payment of such an item.

(c) Claim shall be made on a form provided by the Administrator, filled out completely and executed in duplicate by a duly qualified officer of the insured institution. If the Regulations have been complied with, payment of the loss will be made on audit of the claim and upon proper assignment to the United States of America, of the note upon which the loss occurred, together with any security taken to secure payment thereof. Any security or judgment taken must be assigned, and if any claim has been filed in bankruptcy, insolvency or probate proceedings, such claim shall likewise be assigned to the United States of America.

(d) Where a real estate mortgage, deed of trust, or a conditional sales contract, chattel mortgage or any other security device has been used to secure the payment of loans for eligible purposes, the insured institution may not both proceed against such security and also make claim under its Contract of Insurance, but shall elect which method

[1] (Insured Institution please note) The wording "Notice to borrower—Do not sign this Certificate until the work is satisfactorily completed", must be in type size at least three times the size of the next largest type appearing on the form of Borrower's Completion Certificate.

it desires to pursue. If claim is made, such security device shall be assigned, in its entirety, to the United States of America. If the security taken is non-assignable, all rights in such security shall be exhausted by the insured institution or the claim against the Administrator reduced by the full face amount of the security taken before claim will be paid by the Administrator.

(e) The following form of assignment properly dated shall be used in assigning a note, judgment, real estate mortgage, deed of trust, conditional sales contract, chattel mortgage or any other security device in event of claim:

All right, title and interest of the undersigned is hereby assigned (without warranty, except that the note qualifies for insurance) to the United States of America.

Financial Institution
By ---
Title ---
--- (date)

*† [Reg. XI]

§ 501.12 *Insurance reserve.* (a) Subject to the limitation that his total liability which may be outstanding at any one time plus the amount of claims paid in respect of all insurance heretofore and hereafter granted shall not exceed $100,000,000, the Administrator, in accordance with § 501.11, will reimburse any insured institution for losses sustained by it up to a total aggregate amount equal to 10% of the total amount advanced by it with respect to Class 1, Class 2, and Class 3 loans during the time its Contract of Insurance is in force, on all eligible obligations previously reported for insurance, taken or purchased by it on and after July 1, 1939, and held by it, or on which it remains liable.

(b) If the obligations previously reported for insurance under Contracts of Insurance issued pursuant to the National Housing Act, as amended, effective July 1, 1939, are sold to another insured institution endorsed with or without recourse, the buying and selling institutions may agree, with the prior approval of the Administrator, to transfer all or any part of the insurance reserve standing to the credit of the selling institution, to the purchasing institution. Where the parties agree to transfer an insurance reserve in excess of 10% of the actual purchase price of the obligations involved, or in excess of 10% of the net unpaid original advance on the obligations involved, whichever is the lesser, the entire insurance reserve transferred may be used to pay only those claims arising out of defaults occurring in the transferred obligations. When the obligations so transferred have all been fully paid to the purchasing institution, it shall so notify the Administrator, and any insurance reserve remaining unused shall thereupon revert to the institution from which it was originally transferred.

(c) Where the parties agree to transfer an insurance reserve not in excess of 10% of the actual purchase price of the obligations involved, or not in excess of 10% of the net unpaid original advance on the obligations involved, whichever is the lesser, the insurance reserve so transferred will be credited to the general reserve of the purchasing institution in the absence of any agreement to the contrary between the purchasing and selling institutions.

(d) The transfer of insurance reserve in cases of merger or consolidation of two or more insured institutions, or of an insured with an uninsured institution, will be provided for by the Administrator in accordance with the facts of the particular case.

(e) In all cases involving the transfer of insured obligations, the reports required by § 501.10 must be filed and shall indicate the intent of the parties with regard to the transfer of the insurance reserve, and must show that no note to be transferred is delinquent more than one calendar month at the time of such transfer.

(f) Where the notes are transferred without recourse, guarantee, or repurchase agreement and the reports do not indicate the intent of the parties, the insurance reserve will be transferred to the general reserve of the purchasing institution on the basis of 10% of the actual purchase price of the obligations involved, or 10% of the net unpaid original advance on the obligations involved, whichever is the lesser.

(g) Where the transfer of the obligations is with recourse or under a guarantee or purchase agreement and the required reports do not show the intent of the parties, no insurance reserve will be transferred.

(h) The selling price on the transfer of an insured note between insured institutions will not affect the insurance on the note. The calculation of insured loss will be based on the original transaction of the institution first reporting the loan for insurance.

(i) Where notes reported for insurance by one insured institution are pledged to another insured institution as security for a loan, an assignment of the pledging institution's insurance reserve may be made with the prior consent of the Administrator provided requests for such consent are accompanied by a signed agreement between the two institutions.

(j) Amounts which may be salvaged by the Administrator with respect to a loan in connection with which an institution has been reimbursed under its Contract of Insurance shall not be added to the insurance reserve remaining to the credit of such institution.*† [Reg. XII]

§ 501.13 *Insurance charge.* (a) Insured institutions shall pay to the Administrator an insurance charge equal to three-fourths of 1 per centum per annum of the net proceeds of any loan reported for insurance for the entire term of such loan.

(b) The insurance charge so calculated shall be paid by check or draft to the order of the Federal Housing Administrator, within 25 days after the date the Administrator acknowledges receipt to the insured institution of the report of loan.

(c) When the proceeds of any loan are used to liquidate a loan previously reported for insurance under these Regulations, there shall be deducted from the amount of the insurance charge the pro rata share of the insurance charge paid on the original obligation.

(d) There shall not be refunded any portion of the insurance charge paid by the insured institution with respect to any loan, unless it is subsequently found to have been in whole or in part ineligible for insurance, in which event the insurance charge paid with respect to the ineligible portion of the advance shall be refunded by the Administrator to the insured institution.

(e) The purchaser of an insured obligation shall not be required to pay the insurance charge provided in this section with respect to the insurance of any obligation transferred under the provisions of § 501.12 with respect to which an insurance charge has previously been paid by the seller, and no refund shall be made to the seller as to any part of the insurance charge previously paid with respect to any obligation so transferred. Any adjustments of the insurance charge paid with respect to the insurance of any obligation transferred shall be made between the purchaser and the seller.

(f) The insurance charge paid by the insured institution shall not be charged to the borrower if such charge would cause the total payments made by the borrower to exceed the maximum permissible amount which may be charged to the borrower for interest, discount and all other charges in connection with the transaction.

(g) Subject to the other provisions of these Regulations, the insurance granted under Title I of the National Housing Act, as amended, shall be effective with respect to any loan from the date of the report thereof to the Administrator provided that the insurance charge with respect to such loan has been paid as required by this section.*† [Reg. XIII]

§ 501.14 *Administrative reports and examination.* The Administrator, in his discretion, may at any time or from time to time call for a report from any institution on the delinquency status of the obligations held by such institution and reported for insurance, or call for such reports as he may deem to be necessary in connection with these Regulations, or he or his authorized representative may inspect the books or accounts of the lending institution as they pertain to the loans reported for insurance.*† [Reg. XIV]

§ 501.15 *Amendments.* These Regulations may be amended by the Administrator at any time and from time to time, in whole or in part, but such

amendment shall not affect the insurance with respect to any loan made or obligation purchased prior to the issuance of such amendment.*† [Reg. XV]

§ 501.16 *Effective date.* These Regulations are effective as to all Class 1 and Class 2 loans, advances of credit or purchases made after Jauary 1, 1940 pursuant to the provisions of Title I of the National Housing Act, as amended, and shall have the same force and effect as if included in and made a part of each Contract of Insurance.*† [Reg. XVI]

Issued at Washington, D. C., December 14, 1939.

STEWART MCDONALD,
Federal Housing Administrator.

[F. R. Doc. 39-4830; Filed, December 29, 1939; 10:12 a. m.]

PART 502—CLASS 3 PROPERTY IMPROVEMENT LOANS UNDER SECTION 2, TITLE I OF THE NATIONAL HOUSING ACT, AS AMENDED EFFECTIVE JULY 1, 1939*†

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§ 502.1 *Citation.* These Regulations may be cited and referred to as "Regulations effective January 1, 1940 of the Federal Housing Administrator governing the insurance of qualified lending institutions against loss resulting from Class 3 loans made under the provisions of Title I, Section 2, of the National Housing Act, as amended."*† [Reg. I]

§ 502.2 *Definitions.* As used in these Regulations—

(a) The term "Act" means the National Housing Act, as amended, effective July 1, 1939.

(b) The term "Administration" means Federal Housing Administration.

(c) The term "Administrator" means the Federal Housing Administrator.

(d) The term "Contract of Insurance" includes all of the provisions of these Regulations and of the applicable provisions of the Act.

(e) The term "insured institution" means any bank, trust company, personal finance company, mortgage company, building and loan association, installment lending company or other such financial institution which the Administrator has found to be qualified by experience of facilities and has approved as eligible for credit insurance and to which he has issued a Contract of Insurance.

(f) The terms "loan" and "Class 3 loan" mean any loan which is for the purpose of financing the construction of a new structure to be used in whole or in part for residential purposes.

(g) The term "borrower" means one who is an eligible owner or lessee of real property upon which a new structure is to be or has been constructed pursuant to the provisions of the Act and these Regulations and who applies for and receives an advance of credit in reliance upon the provisions of the Act and these Regulations.

(h) The term "payment" includes a deposit to an account or fund.

(i) The term "installment payment" includes that deposit to an account or fund which represents the partial repayment of an advance of credit.

(j) The term "note" includes a note, bond, mortgage, deed of trust, or other evidence of indebtedness or security instrument.

(k) The term "discount loan" means a loan made on a discount, gross charge or non-interest bearing basis.

(l) The term "interest bearing loan" means a loan represented by a note payable in monthly installments bearing simple interest on the principal outstanding from time to time.

(m) The term "Class 3 structure" means a structure, the construction of which is financed with the proceeds of an eligible Class 3 loan.*† [Reg. II]

§ 502.3 *Eligible borrowers.* A borrower in order to be eligible for a Class 3 loan:

(a) Shall be (1) the fee simple owner of unencumbered land upon which the new structure is to be built or (2) the lessee of such unencumbered land under a lease from the United States Government for a term of at least six months beyond the maturity of the loan or (3) the lessee of such unencumbered land under a lease having a term of at least thirty years to run from the date of the note and providing for annual rental not in excess of 6% of the valuation placed upon the unimproved land by the insured institution and containing a provision which will entitle the lessee to obtain the fee simple title to such land upon payment at any time after one months written notice of a sum not in excess of the amount of such annual rental multiplied by 16⅔, or (4) the lessee of such unencumbered land under a lease for not less than 99 years which is renewable.

(b) Shall establish to the satisfaction of the insured institution by certification on the Credit Statement-Application provided for in § 502.6 that after the mortgage, deed of trust or similar instrument has been recorded, the property will be free and clear of all liens other than such mortgage, deed of trust or similar instrument, except taxes and ground rents not due and payable and special assessments not in arrears, and that in addition to the loan he has an investment in the property in cash, in land, or an interest in the land in an amount equal to 5% of the appraised value of the completed property as determined under Section 502.9 (a).

(c) Shall meet with the credit requirements set forth in § 502.6.*† [Reg. III]

§ 502.4 *Eligible improvements.* (a) A loan must be for the purpose of financing the construction of a Class 3 structure and appurtenances thereto which conforms with the minimum construction requirements and property standard prescribed by the Administrator and which is approved by the Administrator as to architectural design, physical characteristics and location, and which is within the United States, its Territories and Possessions and which is commenced on or after July 1, 1939 and prior to July 1, 1941, in reliance upon the credit facilities afforded by Title I of the National Housing Act as approved June 3, 1939.

(b) The proceeds of a loan shall not be used to finance the cost of completing an unfinished structure, unless the unfinished structure was begun under a Class 3 loan, in which case the total of all loans shall not exceed $2,500.

(c) The proceeds of a loan shall not be used to supplement another loan or advance of credit not reported for insurance.

(d) The proceeds of a loan may be used to pay for architectural and engineering services and builder's profit in connection with the building of new structures financed in accordance with these Regulations.

(e) The proceeds of a loan shall not be used for the purpose of refinancing existing obligations not previously made or reported for insurance pursuant to these Regulations.

(f) Where any doubt exists as to the eligibility of a transaction which is to be financed with an insured loan, the facts of the case should be submitted to the Administrator for a decision and ruling.*† [Reg. IV]

§ 502.5 *Maximum loan.* (a) The amount of advance actually made to the borrower on any loan shall not be in excess of $2,500.

(b) No such loan shall increase the principal amount outstanding at any one time on all loans made under Title I of the National Housing Act effective July 1, 1939, with respect to any one structure or piece of property to an amount in excess of $2,500.

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*§§ 502.1 to 502.17, inclusive, issued under the authority contained in Public, No. 111—76th Congress (H. R. 5323), Section 2.

†The source of §§ 502.1 to 502.17, inclusive, is regulations governing Class 3 Property Improvement loans under Sec. 2, Title I of the National Housing Act, as amended, effective January 1, 1940.

(c) One borrower may obtain any number of loans to improve any number of separate pieces of property, subject to the credit requirements contained in § 502.6.*† [Reg. V]

§ 502.6 *Credits.* (a) The insured institution shall obtain a signed and dated Credit Statement-Application from the borrower on a form approved by the Administrator. The Credit Statement-Application must, in the judgment of the insured institution, clearly show the borrower to be solvent with reasonable ability to pay the obligation and in other respects a reasonable credit risk.

(b) A separate Credit Statement-Application is required in connection with each loan made or note purchased.

(c) An insured institution acting in good faith may rely upon the statements of the borrower who signs the Credit Statement-Application. The Administrator does not place upon the insured institution the burden of verifying the truth of any such statements. Even if such statements are investigated after the loan is made and found to be false, this will not affect in any way the eligibility of the note for insurance. However, any borrower making such false statements or misusing the funds, or any dealer, contractor, or lender who knowingly assists in such a violation, may be committing a Federal offense and will be subject to the penal provisions of the National Housing Act. In all cases where the insured institution discovers a material misstatement in the Credit Statement-Application or misuse of the funds, it must promptly report such a discovery to the Administrator.

(d) A loan shall not be made if the records of the lender or the Credit Statement-Application indicate that the borrower is delinquent as to either principal or interest, with respect to an obligation owing to or insured by any Department or agency of the Federal Government.*† [Reg. VI]

§ 502.7 *Eligible interest bearing loans.* (a) In order to be eligible for insurance an interest bearing loan shall be secured by collateral security in the form of a duly recorded first mortgage, first deed of trust or similar instrument which constitutes a first lien upon a fee simple or leasehold interest in the land and buildings, appurtenances and improvements thereon and which:

(1) Is in a form approved by the Administrator for use in the jurisdiction in which the property covered by the mortgage, deed of trust, or similar instrument is situated and involves a principal amount not in excess of $2,500.

(2) Shall provide for interest at such rate as may be agreed upon between the borrower and the insured institution but in no case shall such interest be in excess of 4½% per annum on the outstanding principal. Interest and principal shall be payable in monthly installments (or other periodic installments as provided in subsection (k) of this Section. In the event interest is payable in installments corresponding to the income periods shown on the Credit Statement-Application, such interest payments may be required in advance for each such installment period). The mortgage may provide that the borrower shall pay in addition to interest an annual service charge at such rate as may be agreed upon between the borrower and the insured institution but in no case shall such service charge exceed one half of one per cent per annum on the outstanding balances. Any such service charge shall be payable on the installment payment dates.

(3) May provide for payments by the borrower to the insured institution on each installment payment date of an amount equal to the annual insurance charge payable by the insured institution to the Administrator, divided by the number of installment payment dates to elapse prior to the date such charge is due and payable to the Administrator.

(4) Shall provide for such equal payments by the borrower to the insured institution on each installment payment date as will amortize the ground rents, if any, and the estimated amount of all taxes, special assessments, if any, and fire and other hazard insurance premiums, within a period ending one month prior to the date on which same become delinquent. The note shall further provide that such payments shall be held by the lending institution in a manner satisfactory to the Administrator for the purpose of paying such ground rents, taxes, assessments, and insurance premiums before the same become delinquent for the benefit and account of the borrower. The note shall also make provision for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums should prove to be more or less than the actual amount thereof so paid by the insured institution.

(5) The note shall contain a privilege of prepayment in full or in amounts equal to one or more installment payments, on the principal that are next due on the note at any interest payment date upon thirty days prior notice and without premium or penalty.

(6) Shall provide that all installment payments to be made by the borrower to the insured institution shall be added together and the aggregate amount thereof shall be applied to the following items in the order set forth.

(i) Insurance charges due the Federal Housing Administrator.

(ii) Service charge, if any.

(iii) Ground rents, taxes, special assessments, and fire and other hazard insurance premiums.

(iv) Interest on the loan.

(v) Amortization of the principal of the loan.

(7) May provide for a late charge to be paid by the borrower, not to exceed two cents (2¢) for each dollar for each installment payment more than fifteen days in arrears. No late charge may be accrued in excess of $5.00. The borrower must be billed for the penalties collected as such, and evidence of such billing must be in the file if claim is made under the Contract of Insurance.

(8) Shall contain a provision for acceleration of maturity at the option of the holder in the event of default.

(9) Shall not have a final maturity in excess of fifteen years and five calendar months.

(10) Shall provide for not more than one hundred and eighty monthly payments which shall fall due on the first day of a month and the first such payment shall fall due not less than six days nor more than six calendar months from the date of the note, except as provided in subparagraph (11) of this paragraph.

(11) In instances in which the Credit Statement-Application of the borrower indicates that not less than 51% of the income of the borrower is derived directly from the sale of agricultural crops, commodities or livestock produced by him, the note may provide, in lieu of monthly installments, for substantially equal installment payments corresponding to the income periods shown on the Credit Statement-Application: *Provided, however,* That the first payment must be within twelve months of the date of the note and that at least one payment must be made during each calendar year thereafter.

(b) The borrower must pay to the insured institution, upon the execution of the note, a sum that will be sufficient to pay premiums on fire and other insurance required by the insured institution pursuant to the terms of the note, and ground rents, if any, and estimated taxes, special assessments, drainage and irrigation charges applicable to the period beginning on the date to which such ground rents, taxes, assessments, and charges were last paid and ending on the date of the first periodic payment under the note. The borrower, at such time, may also be required to pay a sum equal to the first annual insurance charge plus an amount equal to one-twelfth (1/12th) of the annual insurance charge multiplied by the number of months to elapse from the date of the closing of the loan to the date of the first periodic payment, and if the note provides for payment of interest in advance, interest to the due date of the first periodic payment thereunder. The insured institution may charge the borrower the $10.00 paid to the Administration for examining the loan and an initial service charge in an amount sufficient to reimburse the insured institution for the cost of closing the transaction, including appraisal fees but in no case shall the amount of such service charge be in excess of 1% of the original principal amount of the loan.

(c) In addition to the charges hereinbefore mentioned the insured institution may collect from the borrower only recording fees and such costs of title search

as are customary in the community.*† [Reg. VII]

§ 502.8 *Eligible "discount" loans.* (a) A "discount" loan shall be secured by collateral security in the form of a duly recorded first mortgage, first deed of trust or other similar instrument which constitutes a first lien upon a fee simple or leasehold interest in the land and buildings, appurtenances and improvements thereon and:

(1) Shall not be in excess of $2,500 exclusive of financing charges to the borrower.

(2) Shall not have a maturity in excess of fifteen years and five calendar months.

(3) May provide for a maximum financing charge to be paid by the borrower for interest, discount and fees of all kinds other than those referred to in (4) of this paragraph and paragraphs (b) and (c) of this section in connection with the transaction not in excess of an amount equivalent to $3.50 discount per $100 original face amount of a one year note to be paid in equal monthly installments calculated from the date of the note. Such charges correctly based on tables of calculations issued by the Federal Housing Administrator are deemed to comply with this section. The acceptance of a voluntary payment of one or more installments prior to due date shall not be construed as increasing the maximum permissible financing charge as provided in this subparagraph. However, if the entire loan is paid in advance, the insured institution shall make a rebate of the entire unearned financing charge.

(4) May provide for such equal monthly payments by the borrower to the insured institution as will amortize the ground rents, if any, and the estimated amount of all taxes, special assessments, if any, and fire and other hazard insurance premiums within a period ending one month prior to the date on which same becomes delinquent. In such event the note shall further provide that such payments shall be held by the insured institution in a manner satisfactory to the Administrator for the purpose of paying such ground rents, taxes, assessments, and insurance premiums before the same become delinquent for the benefit and account of the borrower and shall also make provision for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more or less than the actual amount thereof so paid by the borrower. If the income of the borrower is derived from the sale of agricultural crops, commodities, or livestock, payments may be seasonal as provided in (7) of this paragraph.

(5) May provide for a late charge, to be paid by the maker, not to exceed two cents (2¢) for each dollar of each installment more than fifteen days in arrears. In lieu of late charges, notes may provide for interest on past due installments at a rate not in excess of the contract rate in the jurisdiction in which the note is drawn. No late charge or interest on a past due installment may be accrued in excess of $5.00. The borrower must be billed for the penalties collected as such, and evidence of such billing must be in the file if claim is made under the Contract of Insurance.

(6) May not provide for a first payment less than six days nor more than six calendar months from the date of the note except as provided in (7) of this paragraph and in no case shall provide for more than one hundred and eighty payments.

(7) May be made payable in installments corresponding to the income periods shown on the Credit Statement-Application if fifty-one percent or more of the income of the borrower is derived directly from the sale of agricultural crops, commodities, or livestock produced by him. In such cases, the first payment must be made within twelve months of the date of the note and at least one payment must be made during each calendar year thereafter and the proportion of total principal to be paid in later years must not exceed the proportion of total principal payable in earlier years.

(8) Shall contain a provision for acceleration of maturity, either automatic or at the option of the holder, in the event of default in the payment of any installment.

(b) In addition to the maximum permissible financing charge which may be paid by the borrower in connection with a Class 3 loan as provided in paragraph (c) of this section, the following allowable costs or expenses if incurred by the insured institution in connection with the transaction may be collected from the borrower, provided such costs or expenses are not paid from the net proceeds advanced to the borrower.

(1) Recording fees.

(2) Title Examination fees.

(3) Fire and other hazard Insurance Premiums.

(4) The $10.00 paid to the Administration for examining the loan.

(5) An initial service charge in an amount sufficient to reimburse the insured institution for the cost of closing the transaction provided that no such service charge shall exceed one per centum of the original net proceeds of the loan.

(c) The borrower may be required to pay to the insured institution upon the closing of the loan a sum that will be sufficient to pay the ground rents, if any, and the estimated taxes, special assessments, and fire and other hazard insurance premiums for the period beginning on the date to which such ground rents, taxes, assessments and insurance premiums were last paid and ending on the date of the first monthly payment under the loan to be held by the insured institution for the purpose of paying such ground rents, taxes, assessments, and insurance premiums before the same become delinquent for the benefit and account of the borrower.*† [Reg. VIII]

§ 502.9 *Loan procedure.* (a) Prior to the start of construction and to the disbursement of any portion of the proceeds of the loan, the insured institution shall make an estimate of the value of the property assuming completion of the proposed improvements and shall certify to the local insuring office of the amount of such appraisal and that the requirements of Section 502.3 (b) will be complied with. However, if the insured institution is an approved mortgagee under the provisions of Title II of the Act and requests the Administrator to determine the eligibility of the property for insurance of a mortgage loan under the provisions of Section 203 of Title II of the Act, it may accept the value estimate of the Administrator as its own in the event it subsequently decides to make a loan under the provisions of these Regulations.

(b) Prior to the start of construction and to the disbursement of any portion of the proceeds of the loan, the insured institution shall submit to the Administrator an Application for Property Approval on a form prescribed by the Administrator. Such application shall be accompanied by the certificate provided for in paragraph (a) of this section, the plans or drawings and specifications, and the insured institution's check made payable to the Federal Housing Administration in the sum of $10.00.

(c) After obtaining the approval of the application by the Administrator and prior to disbursing the proceeds of the loan or any portion thereof, the institution shall satisfy itself that the value of the work done and materials on the site at the time of any progress payment is equal to at least 110% of such payment, plus all such progress payments theretofore made. The insured institution shall not make a disbursement or a progress payment which would increase the total amount disbursed to a sum in excess of 80 per centum of the proceeds of the loan until it has been notified that the final inspection of the structure by the Administration has been made and the work approved. No disbursement of any portion of the proceeds shall be made subsequent to receipt of written notice from the Administrator by the insured institution to the effect that the structure has not been constructed in accordance with the plans and specifications and conditions as approved by the Administrator.

(d) The approval of the Administrator provided for in this section shall not relieve the insured institution from compliance with any Regulation.

(e) In the event that property covered by a loan is sold to an eligible borrower who assumes and agrees to pay the debt and whose credit is satisfactory to the insured institution, the seller may be re-

leased by the insured institution from his obligation upon notice thereof to the Administrator.

(f) Loans shall be reported on the proper form to the Federal Housing Administration at Washington, D. C., within thirty-one days of the first disbursement of any of the proceeds of the loan or the date upon which it was purchased. Any loan refinanced in accordance with § 502.10 shall be reported on the proper form within thirty-one days from the date of refinancing.*† [Reg. IX]

§ 502.10 *Refinancing.* New obligations to liquidate loans previously reported for insurance pursuant to Title I of the Act effective July 1, 1939 which may or may not include an additional amount advanced will be covered by insurance, provided that:

(a) They meet the requirements of all applicable regulations;

(b) Are reported to the Administrator on the proper form within 31 days from date of execution;

(c) Have a maturity not in excess of the maximum permitted under these Regulations from the date of the original obligation;

(d) If an additional advance is made, the full unearned charge on the original note shall be refunded to the borrower;

(e) If no additional advance is made, the full unearned charge on the original note shall be refunded to the borrower, except that a handling charge not in excess of $2.00 may be assessed to the borrower.*† [Reg. X]

§ 502.11 *Claims.* Claim for reimbursement for loss on a qualified loan shall be made as provided in this section.

(a) If the borrower fails to make any payment, or to perform any other covenant or obligation under the mortgage, and such failure continues for a period of thirty (30) days, the note shall be considered in default and at any time within one year from the date of default the insured institution, at its election, shall either—

(1) Acquire by means other than foreclosure of the mortgage, possession of, and title to, the mortgaged property; or

(2) Commence foreclosure of the mortgage; provided, that if the laws of the State in which the mortgaged property is situated do not permit the commencement of such foreclosure within such period of time, the insured institution shall commence such foreclosure within sixty (60) days after the expiration of the time during which such foreclosure is prohibited by such laws.

(3) Nothing herein contained shall be construed so as to prevent the lending institution, with the written consent of the Administrator, from taking action at a later date than herein specified.

(b) For the purposes of this paragraph, the date of default shall be considered as thirty (30) days after (a) the first uncorrected failure to perform a covenant or obligation, or (b) the first failure to make a monthly payment which subsequent payments by the mortgagor are insufficient to cover when applied to the overdue monthly payments in the order in which they became due.

(c) If after default and prior to the completion of foreclosure proceedings, the borrower shall pay to the insured institution all monthly payments in default and such expenses as the insured institution shall have incurred in connection with the foreclosure proceedings, no claim for reimbursement under the Contract of Insurance can be made and the insurance shall continue as if such default had not occurred.

(d) If the default is not cured as aforesaid, and if the insured institution has otherwise complied with the provisions of this section, it may at any time within thirty (30) days (or such further time as may be necessary to complete the title examination and perfect such title) after the expiration of the period given the insured institution to sell under paragraph (g) of this section, tender to the Administrator possession of, and a deed containing a covenant which warrants against the acts of the insured institution and all claiming by, through, or under it, conveying good merchantable title to such property undamaged by fire, earthquake, flood, or tornado. The Administrator shall promptly accept conveyance of such property and, subject to § 502.14, make payment of loss sustained by the insured institution as follows:

(1) The net unpaid balance of advance actually made;

(2) Uncollected earned interest (after default interest is not to be claimed at a rate to exceed 4% per annum for the first six months nor thereafter to exceed 3% per annum and will be calculated to the date the claim is approved for payment);

(3) Actual expenses incurred by the insured institution and approved by the Administrator in connection with the foreclosure proceedings or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Administrator up to but not to exceed $75.00;

(4) The amount of all payments which have been made by the insured institution for taxes, ground rents, special assessments, and water rates which are liens prior to the mortgage, and fire and hazard insurance premiums.

Any amount received by the insured institution from any source relating to the property on account of rent or other income, after deducting reasonable expenses incurred in handling the property shall be deducted from the sum of the foregoing.

(e) Evidence of title of the following types will be satisfactory to the Administrator:

(1) A fee or owner's policy of title insurance, a guaranty or guarantee of title, or a certificate of title, issued by a title company, duly authorized by law and qualified by experience to issue such; or

(2) An abstract of title prepared by an abstract company or individual engaged in the business of preparing abstracts of title and accompanied by a legal opinion as to the quality of such title signed by an attorney at law experienced in examination of titles; or

(3) a Torrens or similar title certificate; or

(4) evidence of title conforming to the standards of a supervising branch of the Government of the United States or of any State or Territory thereof.

Such evidence of title shall be furnished without cost to the Administrator and shall be executed as of a date to include the recordation of the deed to the Administrator, and shall show that, according to the public records, there are not, at such date, any outstanding prior liens, except for ground rents and taxes not due and payable and special assessments not in arrears. If the title and title evidence are such as to be acceptable to prudent lending institutions and leading attorneys generally in the community in which the property is situated, such title and title evidence will be satisfactory to the Administrator and will be considered by him as good and merchantable.

(f) The Administrator will not object to the title by reason of the following matters, provided they are not such as to impair the value of the property for residence purposes:

(1) Customary easements for public utilities, party walls, driveways, and other purposes; customary building or use restrictions for breach of which there is no reversion and which have not been violated to a material extent;

(2) Such restrictions when coupled with a reversionary clause, provided there has been no violation prior to the date of the deed to the Administrator;

(3) Slight encroachments by adjoining improvements;

(4) Outstanding oil, water, or mineral rights, which do not impair the value of the property for residence purposes, or which are customarily waived by prudent lending institutions and leading attorneys generally in the community.

(g) In lieu of the procedure provided for in paragraphs (d) and (e) of this section the insured institution, after acquiring title to the property as provided in this section, may at its option, sell the same in the open market to a bona fide third party at any time within six months from the date of such acquisition of the property, or within such further time as may be approved by the Administrator; *Provided*, That such property may not, without the prior approval of the Administrator, be sold for a price less than 75 percent of the net unpaid balance of the advance ac-

tually made. The net amount received at such sale, whether in cash or deferred payments, shall be credited on the obligation and claim may be filed with the Administrator for the balance. Payment of loss sustained by the insured institution shall be made as follows:

(1) The net unpaid balance of the advance actually made. In calculating the net unpaid amount, the net sale price must be included as a credit.

(2) Uncollected earned interest (after default and prior to acquisition of the property by the insured institution interest is not to be claimed at a rate to exceed 4% per annum for the first six months nor thereafter to exceed 3% per annum. Subsequent to the acquisition of the property by the insured institution interest shall not be claimed at a rate to exceed 3% per annum.)

(3) Actual expenses incurred by the lending institution and approved by the Administrator in connection with foreclosure proceedings or acquisition of the property otherwise up to but not exceeding $75.00.

(4) The amount of all payments which have been made by the insured institution for taxes, ground rents, special assessments, water rates which are liens prior to the mortgage, fire and hazard insurance premiums and cost of maintenance and repair to the property (claim for cost of maintenance and repair shall not exceed 10% of the net unpaid balance of the advance actually made unless prior approval of the Administrator has been obtained).

Any amount received by the insured institution from any source relating to the property on account of rent or other income shall be deducted from the sum of the items referred to in this paragraph.*† [Reg. XI]

§ 502.12 *Insurance charge.* (a) Insured institutions shall pay to the Administration an insurance charge equal to one-half of one per centum per annum of the net proceeds of any discount loans reported for insurance and an annual insurance charge equal to one-half of one per centum of the original principal amount of any interest-bearing loans reported for insurance.

(b) The first annual insurance charge so calculated shall be paid by check or draft to the order of the Federal Housing Administration within 25 days after the date the Administration acknowledges receipt to the insured institution of the report of any such loan and the next and each succeeding annual insurance charge shall be paid in advance upon the anniversary of the first day of the month following the date of the note until the loan is paid in full or claim is filed with the Administrator under the Contract of Insurance.

(c) In the event the loan is paid in full prior to maturity or is foreclosed or the possession of and title to the property is otherwise acquired by the insured institution, the insured institution shall within 30 days thereafter notify the Administration of the date of prepayment, foreclosure or acquisition, after which its obligation to pay future annual insurance charges in connection therewith shall cease but it shall not be entitled to a refund of any portion of an annual insurance charge previously paid or a reduction in the amount of any insurance charge which fell due prior to such prepayment, foreclosure or acquisition of the property.

(d) When the proceeds of any loan are used to liquidate a loan previously reported for insurance under these Regulations, there shall be deducted from the amount of the insurance charge payable the first year the pro rata share of the annual insurance charge paid on the original obligation.

(e) The purchaser of an obligation previously reported for insurance shall pay each succeeding annual insurance charge as provided in paragraph (b) of this section. Any adjustment of the insurance charge paid in advance by the seller shall be made between the purchaser and the seller.

(f) The insurance charge paid by the insured institution shall not be charged to the borrower if such charge would cause the total payments made by the borrower to exceed the maximum permissible amount which may be charged to the borrower for interest, discount and all other charges in connection with the transaction, except as provided in §§ 502.7 and 502.8.

(g) Subject to the other provisions of these Regulations, the insurance granted under Title I of the National Housing Act, as amended, shall be effective with respect to any loan from the date of the report thereof to the Administrator provided that the insurance charge with respect to such loan is paid as required by this section.*† [Reg. XII]

§ 502.13 *Insurance reserve.* (a) Subject to the limitation that his total liability which may be outstanding at any one time plus the amount of claims paid in respect to all insurance heretofore and hereafter granted shall not exceed $100,000,000, the Administrator, in accordance with § 502.11, will reimburse any insured institution for losses sustained by it up to a total aggregate amount equal to 10% of the total amount advanced with respect to Class 1, Class 2 and Class 3 loans during the time its Contract of Insurance is in force, on all eligible obligations previously reported for insurance, taken or purchased by it on and after July 1, 1939, and held by it, or on which it remains liable.

(b) If obligations previously reported for insurance under Contracts of Insurance issued pursuant to the National Housing Act, as amended, effective July 1, 1939, are sold to another insured institution endorsed with or without recourse, the buying and selling institution may agree to transfer all or any part of the insurance reserve standing to the credit of the selling institution to the purchasing institution with the prior approval of the Administrator under such terms and conditions as he may prescribe.

(c) The transfer of insurance reserve in cases of merger or consolidation of two or more insured institutions, or of an insured with an uninsured institution, will be provided for by the Administrator in accordance with the facts of the particular case.

(d) In all cases involving the transfer of insured obligations, the reports required by § 502.9 (f) must be filed and shall indicate the intent of the parties with regard to the transfer of the insurance reserve, and must show that no note to be transferred is delinquent more than one calendar month at the time of such transfer.

(e) Where the notes are transferred without recourse, guarantee, or repurchase agreement and the reports do not indicate the intent of the parties, the insurance reserve will be transferred to the general reserve of the purchasing institution on the basis of 10% of the actual purchase price of the obligations involved, or 10% of the net unpaid original advance on the obligations involved, whichever is the lesser.

(f) Where the transfer of the obligation is with recourse or under a guarantee or purchase agreement and the required reports do not show the intent of the parties, no insurance reserve will be transferred.

(g) The selling price on the transfer of an insured note between insured institutions will not affect the insurance on the note. The calculation of insured loss will be based on the original transaction of the institution first reporting the loan for insurance.

(h) Where notes reported for insurance by one insured institution are pledged to another insured institution as security for a loan, an assignment of the pledging institution's insurance reserve may be made with the prior consent of the Administrator provided requests for such consent are accompanied by a signed agreement between the two institutions.

(i) Amounts which may be salvaged by the Administrator with respect to a loan in connection with which an institution has been reimbursed under its Contract of Insurance shall not be added to the insurance reserve remaining to the credit of such institution.*† [Reg. XIII]

§ 502.14 *Privileges extended to loans reported for insurance under previous regulations.* (a) At its option an insured institution may extend or renew, for a period up to fifteen years from its original date, any Class 3 loan made prior to the effective date of these Regulations and heretofore or hereafter reported for insurance under the Acts of February 3, 1938 or June 3, 1939 amending the National Housing Act, and the unpaid balance of any such loan shall be so amortized as to be fully paid at the

end of said fifteen year term: *Provided*, That all such loans are secured by collateral security in the form of a duly recorded first mortgage, first deed of trust or similar instrument which constitutes a first lien upon a fee simple or leasehold interest in the land and buildings, appurtenances and improvements thereon.

(b) In the event the property covered by a loan made prior to the effective date of these Regulations and heretofore or hereafter reported for insurance under the Acts of February 3, 1938, or June 3, 1939 is sold to an eligible borrower who assumes and agrees to pay the debt and whose credit is satisfactory to the insured institution, the seller may be released by the insured institution from his obligation upon notice thereof to the Administrator: *Provided*, That all such loans are secured by collateral security in the form of a duly recorded first mortgage, first deed of trust or similar instrument which constitutes a first lien upon a fee simple or leasehold interest in the land and building, appurtenances and improvements thereon.

(c) In the case of any loan made on or after July 1, 1939, the insured institution at its option may acquire title to the property and dispose of such property as provided in § 502.11, whereupon such loan shall be subject to all the applicable provisions of these Regulations.

(d) In the event any loan made on or after July 1, 1939, is paid in full or the property is acquired by the lending institution as set forth in § 502.11 or in the event the insurance with respect to the loan is terminated, no additional insurance charge with respect to such loans shall be payable.

5. In the case of any loan made on or after July 1, 1939, the insurance charge may be paid by check or draft to the order of the Federal Housing Administration annually in advance as provided in Section 502.12 (b).*† [Reg. XIV]

§ 502.15 *Administrative reports and examination.* The Administrator, in his discretion, may at any time or from time to time call for a report from any institution on the delinquency status of the obligations held by such institution and reported for insurance, or call for such reports as he may deem to be necessary in connection with these Regulations, or he or his authorized representative may inspect the books or accounts of the lending institution as they pertain to the loans reported for insurance.*† [Reg. XV]

§ 502.16 *Amendments.* The foregoing Regulations may be amended by the Administrator at any time and from time to time, in whole or in part, but such amendment shall not affect the insurance with respect to any loan made or obligation purchased prior to the issuance of such amendment.*† [Reg. XVI]

§ 502.17 *Effective date.* The foregoing Regulations are effective as to all Class 3 loans, advances of credit or purchases made on or after January 1, 1940, pursuant to the provisions of Title I of the National Housing Act, as amended, and shall have the same force and effect as if included in and made a part of each Contract of Insurance.*† [Reg. XVII]

Issued at Washington, D. C., December 14, 1939.

STEWART MCDONALD,
Federal Housing Administrator.

[F. R. Doc. 39-4829; Filed, December 29, 1939; 10:12 a. m.]

CHAPTER VI—UNITED STATES HOUSING AUTHORITY

PART 638—STEPS IN THE DEVELOPMENT OF A LOW-RENT HOUSING PROJECT SUBSEQUENT TO THE EXECUTION OF THE CONTRACTS OF LOAN AND ANNUAL CONTRIBUTIONS*†

Sec.

§ 638.0 *Scope and content.* The progressive steps in the development of a low-rent housing project from the beginning of local activity through the execution of the Contracts of Loan and Annual Contribution are described in Part 608. This Part 638 describes the succeeding progressive steps which begin, ordinarily, with the organization of the permanent staff of the local housing authority and conclude with the award of the principal construction contracts. Thus, Parts 608 and 638 cover the progressive steps in the development of a low-rent housing project from the initiation of local activity to the beginning of actual construction. The attention of local authorities is invited to the fact that some of the matters covered generally by this Part have been discussed more fully in other Parts. The related Parts are indicated at the appropriate points in this Part. The following specific steps are described in this Part: organization of permanent staff; adoption of accounting procedure; performance of conditions in loan contract; execution of development fund agreement; application for advance loan; preparation of development cost budgets; preparation of site; negotiation, preparation and approval of architect's contract; preparation and submission of preliminary plans; preparation and submission of construction plans and specifications; preparation and submission of revised estimates of development cost; advertisement for bids and award of contracts. These steps should ordinarily be taken in the order indicated. Occasionally, however, the local authority may find it possible and advisable to expedite the program by proceeding with two or more steps simultaneously.*† [Introduction]

§ 638.1 *Organization of permanent staff.* The successful development of a low-rent housing project requires a permanent clerical and technical staff under competent supervision. Accordingly, one of the first steps to be taken by the local authority after the signing of the Contracts of Loan and Annual Contribution is to organize a permanent staff and arrange for the necessary office space and equipment. The USHA is prepared, upon request, to make suggestions as to the size, character and economical management of the staff required. The attention of local authorities is invited particularly to the fact that the salaries of the members of its permanent staff should be commensurate with their respective responsibilities and with the size of the local program.*† [Par. I]

§ 638.2 *Adoption of accounting procedure.* In order that all transactions relating to the receipt and expenditure of funds in the development of the project may be properly recorded, the local authority should promptly establish an acceptable accounting procedure. A satisfactory procedure is outlined in the "Manual of Instructions of Accounting Procedure for Local Housing Authorities" and the adoption thereof will expedite the approval of requisitions by the USHA and facilitate the auditing of the local authority's books. The "Manual" will be forwarded to the local authority when the Loan and Annual Contributions contracts are in process of execution. The USHA will also, upon request, send a Project Auditor to assist in opening the local authority's books.*† [Par. II]

§ 638.3 *Performance of conditions in loan contract.* The local authority will not ordinarily be able to make substantial progress with its program until an advance loan has been obtained from the USHA. Accordingly, all the conditions precedent to the advance of funds contained in the loan contract and related documents should be performed promptly. The performance of these conditions may entail negotiations with local municipal officials with respect to (a) equivalent elimination (see Part 624), (b) local contributions or other forms of local aid to achieve low rents (see Part 631), or (c) assurances that at least 10% of the development cost of the project can be obtained from sources other than the USHA. All such negotiations should

*Section 638.0 to 638.13 issued under the authority contained in Sec. 8, 50 Stat. 891, 42 U.S.C., Sup. IV, 1408.

†The source of Sections 638.0 to 638.13 is Bulletin No. 15, as revised, May 26, 1939.

be completed expeditiously so that an advance loan may be obtained promptly when funds are needed.*† [Par. III]

§ 638.4 *Execution of development fund agreement—Provisions of the agreement.* The "Terms and Conditions" incorporated in the Loan Contract provide that the funds received by the local authority from the USHA shall be deposited in a separate account, to be known as the "Development Fund", in a bank or banks acceptable to the USHA. To insure the application of this Fund to the development of the project and, at the same time, to facilitate its use, the USHA requires the execution of a "Development Fund Agreement." This Agreement provides for withdrawals from the Development Fund upon the basis of checks and supporting vouchers. Such vouchers must indicate the purposes for which the checks are drawn and must, ordinarily, be accompanied by certificates which certify that the checks are drawn to pay development costs. The Agreement does not, however, require separate approval of each withdrawal by the USHA. The depositary bank is authorized to honor, upon receipt, checks of the local authority supported by the appropriate vouchers and certificates. Prompt selection of the depositary bank, and prompt execution of the Development Fund Agreement, will expedite the advance of funds by the USHA. The name of the proposed depositary bank should be submitted to the USHA for approval and, upon obtaining such approval, two executed copies and two certified copies of the Development Fund Agreement, together with three certified copies of the proceedings authorizing the execution thereof, should be forwarded promptly to the USHA. The procedure contemplated by the Development Fund Agreement is simple and expeditious and familiar to most banks. In addition, the USHA has prepared, and will furnish upon request, a suggested form of Development Fund Agreement which contains suggested forms of the certificates required. A suggested form of Accounts Payable Voucher is contained in the Manual of Accounting Procedure referred to in Sec. 638.2, above.*† [Par. IV]

§ 638.5 *Application for advance loan.* Funds should be obtained in time to meet costs as they accrue in the development of the project. The Loan Contract provides that upon a satisfactory showing of a need for funds which cannot otherwise be met, and upon the performance of the conditions precedent embodied in the Loan Contract, the USHA may make an advance to the local authority on account of the loan. As soon as the need arises and the conditions have been performed, the local authority should file an Advance Loan Requisition with the USHA, together with the necessary supporting documents. Additional requisitions may be filed from time to time as funds are needed. However, no request for funds for Acct. No. 1440.1, land purchase, shall be submitted unless options have been acquired by the local authority on at least fifty per cent of the parcels involved and such options have been approved by the USHA. All requisitions supported by the required data will be promptly honored. However, it is requested that, insofar as practicable, requisitions for advance of funds be filed at least twenty (20) days prior to the date on which the funds will be needed. The advance loan may be used to pay architectural, engineering and planning fees, costs of preparation of plans, specifications and other forms of proposed contract documents, costs of acquiring land and other expenses to be incurred prior to the sale of definitive bonds, provided the contracts for the services or items involved have been previously submitted to the USHA and approved by it. In determining the amount of any advance loan necessary, the local authority should remember that definitive bonds will not ordinarily be sold until the site has been acquired and the construction contracts have been awarded. The local authority shall not use any of the funds advanced by the USHA to reimburse itself or others for expenditures made prior to the date of the loan contract until a Project Auditor from the staff of the USHA has examined the particular items of expenditure involved and the USHA has determined that such items are eligible for inclusion in development costs.[1]*† [Par. V]

§ 638.6 *Preparation of development cost budgets.* In order to provide the local authority with a means of controlling the nature and extent of expenditures in the development of the project, the USHA has prepared a form of Development Cost Budget. There shall be a preliminary and a final development cost budget for each project. These budgets shall be prepared and used as provided in this section 638.6.

(a) *Preliminary budget.* The Preliminary Budget guides the local authority in making expenditures and in requisitioning funds from the time of execution of the loan contract until this budget is superseded by the final budget at the commencement of construction. The Preliminary Budget will, necessarily, be based primarily upon the estimate of "Proposed Development Cost" submitted by the local authority as Item 410, Part IV, of its Application for Financial Assistance, as modified and approved for purposes of the loan contract. The local authority need not re-submit this estimate to the USHA for budget purposes. The USHA will transpose the approved estimate to the Budget Form and the original copy of the estimate, as transposed, will be transmitted to the local authority as soon as practicable after the loan contract is forwarded for execution. The transposed estimate will constitute the Preliminary Budget. The attention of local authorities is invited to the fact that the amounts shown under the various account classifications, 1410 through 1470, are net figures representing the actual estimate or commitment, as the case may be. The amount shown under Acct. No. 1480, Contingency, will (unless determined otherwise necessary by the USHA) equal five per cent of the total of all the items 1410 through 1470 and is for the purpose of providing normal latitude for changes, extras and overruns during development.

(b) *Final Budget.* (1) The Final Budget shall be prepared by the local authority on Form USHA–512 and shall be arranged so as to conform to the Standard Classifications of Accounts set forth in the Manual of Instructions of Accounting Procedure for Local Housing Authorities, Part I, approved by the Administrator, April 29, 1938. The USHA Project Planning and Auditing Advisors will render any necessary assistance in the preparation of the budget and will, where possible, be made available upon request.

(2) The Final Budget shall reflect contract amounts wherever contracts have been awarded and, as to other items, shall represent the latest estimate developed in connection with the completion of final plans and specifications and bids received. The amounts included shall be distributed among the appropriate control account classifications, i. e., 1410, Administrative, 1420, Carrying Charges, and the like. The amounts shown under the various account classifications, 1410 through 1470, shall be net figures representing the actual estimate or commitment, as the case may be. The amount shown under Acct. No. 1480, Contingency, shall (unless determined otherwise necessary by the USHA) be equal to five per cent of the total of all the items 1410 through 1470 and is for the purpose of providing normal latitude for changes, extras and overruns during development.[2] (In the event that the costs of site acquisition have been definitely determined, the amount represented by this item may be excluded from the total upon which the five percent for Contingency is calculated. In such case care must be taken in the apportionment of the Contingency item to dwelling and non-dwelling costs so that no part of said Contingency is prorated against the item of site acquisition.) The total of the eight control accounts shall be the total anticipated development cost. After the budget has been approved by the USHA, all variations of costs from the items therein shall be treated as underruns or overruns, as the case may be. Overruns in subaccounts which are compensated by underruns within the same grouping do

[1] See Part 625 for a detailed statement of items of expenditure eligible for inclusion in development cost.

[2] Account No. 1480, Contingency, is not to be confused with the 10 per cent margin of safety which, under the terms of the Loan Contract, may be authorized by the USHA for the purpose of meeting unanticipated extra costs during construction and other contingencies. Such margin of safety shall not be included as a part of any development cost budget.

not require USHA approval except for items with respect to which specific limits previously were approved by the USHA. In general, the following items are limited by the specific approval of the USHA: legal services, land purchase price, base fee or contract amounts. If and when it appears necessary to exceed the total of any one grouping, the approval of the USHA shall be obtained prior to the making of any commitments resulting in such excess.

(3) The attention of local authorities is invited to the fact that Form USHA–512 provides for a summary of the control accounts broken down to reflect the division between dwelling and nondwelling costs. This breakdown shall be submitted with the Final Budget and shall be prepared in accordance with the Manual of Instructions of Accounting Procedure for Local Housing Authorities, Part I, sheet 8, paragraph 24, subject to such adjustment in the Contingency account as may be necessary in particular cases as hereinabove described. Sheet 2 of the budget form has been designed to provide conveniently for such computations.

(4) The attention of local authorities is also invited to the fact that Form USHA–512 provides that certain items of the estimated development cost shall be supported by detailed schedules indicating the basis of the estimate. The items calling for such supporting schedules are designated by an asterisk placed at the left of the subaccount classification number. If the administrative elements of cost under Account No. 1410, or any other Accounts, are proratable over two or more projects under one Loan Contract the supporting schedules required should reflect the total cost of such elements to all such projects collectively and the percentage applicable to each project individually. In order to expedite review and approval of final budgets by the USHA, particularly with respect to the eligibility of the various items of development cost included therein, the local authority is requested to submit the required supporting schedules in adequate detail.

(5) The classifications for which supporting schedules are required in connection with the final budgets and the form of their submission are as follows:

Title or classification	Rate per month	Number of months	Total

The above headings are to be used in preparing the supporting schedules for the following classifications: 1410.1, Pay Roll-Executive; 1410.2, Pay Roll-Technical; 1410.3, Pay Roll-Site.

FILL OUT APPROPRIATE BLANKS IN FORM USHA 440

For classification 1410.4, Legal Services & Expenses-Adm. only. (If previously submitted to USHA, resubmittal not required.)

Item and description	Quantity	Unit price	Total

For classification 1410.07, Furniture & Fixtures—Office.

Description of expense	Amount

For classification 1410.16, Informational Expense.

Classification or character of expense	Rate per month	Other	Total

For classification 1430.7, Inspection Costs-Salaries & Expense.

FILL OUT APPROPRIATE BLANKS IN FORM USHA 440

For classification 1440.8, Legal Services-Land only. (If previously submitted to the USHA, resubmittal not required.)

FILL OUT APPROPRIATE BLANKS IN FORM USHA 440

For classification 1440.9, Legal Expense-Land only. (If previously submitted to USHA, resubmittal not required.)

Character of service	Basis of commission	Estimated	Amount

For classification 1440.10, Commissions.

Title or classification	Rate per month	Number of months	Total

For classifications 1470.1 and 1470.2, Pay Roll-Executive and Pay Roll-Operations.

Items and description	Quantity	Unit price	Total

For classification 1470.6, Furniture & Fixture—Office.

In addition to the foregoing schedules, there shall also be furnished a schedule showing the basis for the computation of the amount of interest during development which is distributed under Account No. 1420.1, Carrying Charges—Interest During Development.

(6) For further information reference is made to the Manual of Instructions of Accounting Procedure for Local Housing Authorities, Part I.

(7) The Final Budget shall be approved by the local authority in the space provided and submitted to the USHA in single copy form not later than fifteen days after the execution of the first major superstructure construction contract. Upon approval of the Final Budget by the USHA, a photostatic copy thereof will be transmitted to the local authority.*† [Par. VI]

§ 638.7 *Preparation of site.* In the preparation of the site, the following steps should be taken as promptly as practicable so there will be no delay when construction contracts are awarded: (a) the acquisition of land, (b) the relocation of tenants, (c) the closing of streets and relocation of utilities, (d) the obtaining of easements and rights of way, (e) the investigation of subsoil conditions and (f) the demolition of existing buildings.

(a) *Land acquisition.*[3] As soon as the site has been selected by the local authority and approved by the USHA, both of which should be done promptly after the execution of the Loan Contract or prior thereto, the local authority should proceed immediately with the acquisition of land.

(b) *Relocation and rights of tenants.*[4] During the period of land acquisition, the status of the tenants in the area should be investigated. Their status, will in large measure, be revealed in gathering the title information. The final title papers should be accompanied by an affidavit setting forth the names of the parties in possession and their status. In the case of many built-up sites, it will be advisable to make a survey of the existing buildings and the families occupying them for use (1) in determining which of the dwelling units to be demolished are substandard and to be credited as "equivalent elimination" and (2) in relocating the dispossessed families and rehousing them in the project as far as practicable. The USHA is prepared to assist in the formulation of such surveys. Steps should be taken to relocate all tenants in ample time to permit demolition of the buildings as soon as title to the property is acquired.

(c) *Street closings and utilities.* In addition to the acquisition of the privately owned property within the proposed project area, the site plans for the project may entail the closing of designated streets and alleys and the relocation of existing utilities. In all such cases, the local municipal authorities and the utility companies concerned should be consulted promptly in order to avoid delay in working out the cooperative procedures necessary. To the full extent consistent with proper site planning, the local authority and the architects should

[3] See Part 631 for a detailed statement of the requirements of the USHA and the procedure to be followed by the local authority in connection with land acquisition.

[4] See Part 632 for the procedure to be followed in relocating tenants.

plan to use existing utilities and streets and to keep the relocation of utilities and the closing of streets to a minimum in order that maximum speed and economy may be attained.

(d) *Easements and rights of way.* All necessary rights of way and easements over the property of others (including existing streets to be vacated and new streets to be dedicated) for the carrying of water lines, sewers or other utilities should be obtained, or granted, as the case may be, simultaneously with the acquisition of the site of the project.

(e) *Subsoil investigation.* During the period of land acquisition, full and complete information should be obtained concerning the type of soil involved and its bearing value and any unusual conditions with respect to it which might affect construction. In securing land options, it may be advisable, in some instances, to include in the options covering land as to which such information is not known or readily available in the offices of the City Engineer or elsewhere, a clause giving the local authority the right to enter on and inspect the premises and to make topographical surveys, test pits and borings in order to obtain such information.

(f) *Demolition.* As soon as a sufficient portion of the site has been acquired to permit on orderly demolition program, bids should be invited for the demolition of the buildings on the site. If the demolition contract is let before title to the entire site is acquired, the local authority should protect itself against any delays which may develop in the acquisition of the remaining parcels of the site. The value of the salvage rights accruing to the contractor will in some instances make the actual cash consideration, if any, passing to or from the local authority under the demolition contract virtually negligible. Accordingly, the size of the performance bond to be required of the contractor by the local authority should be determined on the basis of an advance estimate of the cost to the contractor of demolishing or removing the buildings and structures from the project site, without any allowance for the value of salvaged materials. Unless there are local laws to the contrary, the amount of the bond should not be less than 50 per cent of this estimated cost. If the value of the salvage material which is easily removable without demolishing the building is considerable, the amount of the bond should be increased accordingly. The attention of the local authorities is invited to Part 610 which contains considerable general information applicable to demolition contracts. The USHA has also prepared, and will furnish upon request, a suggested form of demolition contract.*†

[Par. VII]

§ 638.8 *Negotiation, preparation and approval of contracts for architectural services*—(a) *General.* Immediately after the execution of the loan contract, the local authority should begin contract negotiations with the architect or group of architects selected for the project. The USHA has prepared, and will furnish upon request, a suggested form of architect's contract providing for general supervision of construction by the architect and a suggested form providing for general supervision by persons other than the architect. A decision should be made at an early date as to whether the architect, or an appropriate staff of the local authority, will supervise construction. Many local authorities are finding it advisable to have construction supervised by the architect. In order to centralize responsibility, one architect's contract should, if practicable, be made covering all phases of the work rather than separate contracts for each phase. However, if the local authority wishes to make a separate contract with a landscape architect, or a consulting engineer, the USHA will have no objection to this procedure so long as the total architectural fee for the project does not exceed the schedule of fees meeting the approval of the USHA. A copy of each proposed architect's contract and of each proposed engineer's contract should, pursuant to the "Terms and Conditions", be submitted to the USHA for approval prior to the signing thereof by the local authority. Five conformed copies of the executed contracts should be forwarded promptly to the USHA.

(b) (1) *Architect's fee.* As soon as practicable the local authority and the architect should determine, subject to the approval of the USHA, the amount of the fixed fee to be paid to the architect. The proposed fee should be submitted for approval promptly so that it may be established and prorated between dwelling and non-dwelling costs and be budgeted accordingly during the early stages of the development. The suggested forms of architect's contract provide that the fixed fee of the architect shall be computed by the local authority by applying a stated percentage to the estimated improvement cost (excluding the items allowed for construction contingencies) and that the fee so determined shall be approved by the architect. The suggested forms of architect's contract also provide, in Section 3 (a) thereof, that this estimated improvement cost shall be prepared by the architect and checked and approved by the local authority.

(2) In appropriate instances the USHA will approve architectural fees computed by the local authority and the architect on the basis of the estimated cost of improvements in the application for financial assistance as approved for purposes of loan contract (excluding the items allowed for contingencies). At this stage the costs of mechanical items may be indeterminate because of uncertainties as to the type of heating to be used. Similar uncertainties may make it practicable to fix only the architectural fee, leaving some, or all, of the other fees open to future determination when better information is available. However, any agreement providing for the computation of the architect's fee on the basis of the application should be predicated on the assumption that the number of dwelling units contemplated by the final plans and specifications will be approximately the same as the number contemplated by the loan contract. If there should be any material change, plus or minus, between the number of dwelling units contemplated by the loan contract and the number contemplated by the final plans and specifications, the architect's fee should be adjusted as provided in Sections 3 (h) and 14 of the suggested forms of architect's contract.

(3) The USHA has prepared, and will furnish upon request, a schedule of suggested architect's fees applicable to contracts providing for general supervision of construction by the architect and a similar schedule applicable to contracts providing for general supervision by persons other than the architect. In these schedules the architect's fee is designed to apply to the total estimated cost of the project, including landscaping and engineering work. Fees for the landscape and engineering work are allowable in addition to the architect's fee.

(4) In its submittal of the architect's fixed fee, the local authority should indicate how the fee was computed and the items excluded from the Estimated Improvement Cost in determining its amount. After the clearance of any points at issue, the USHA will indicate its approval of the fixed fee.

(5) Occasionally, the question may arise as to whether the architect is entitled to a payment on account prior to the determination and approval of the exact amount of the fixed fee. In such instances, the local authority will be guided by the particular circumstances involved. The local authority may, in justifiable situations, make such payments in the form of equitable lump sums to be deducted from the percentage amounts provided in the contracts and to be paid at progressive stages of the work. In no case, however, should such payments exceed the value of the work or service performed to the date of such payment.

(c) (1) *Schedule of fees and wages to be paid by the architect.* At the time the proposed contract is submitted to the USHA for comment or approval, and prior thereto if practicable, there should also be submitted to the USHA a schedule of the fees and wages which the architect proposes to pay to the various classes of architects, technical engineers, draftsmen, technicians, laborers and mechanics to be employed by him under his contract. This schedule should be supported by any available evidence obtained by the architect or the local authority which tends to establish such fees and wages as the fees and wages prevailing in the locality concerned. All contracts between the local authority

and the architects should contain provisions requiring the architects to submit certified pay rolls as prescribed in the Manual of Accounting Procedure for Local Housing Authorities, Part II. The submittals specified in this sub-paragraph (c) (1) are necessary to enable the USHA to determine that the fees and wages to be paid are the fees and wages prevailing in the locality concerned as required by the United States Housing Act and the "Terms and Conditions".

(2) The schedule of prevailing fees and wages approved by the USHA shall be effective as of the date of the loan contract and the architect shall, accordingly, adjust to the approved schedule any fees or wages paid after the date of the loan contract which are less than those appropriate under the approved schedule. All overtime shall be paid for on the basis of not less than time and one-half.*† [Par. VIII]

§ 638.9 *Preparation and submission of preliminary plans.* The suggested forms of contract for architectural services provide, under Section 3 (a) thereof, for certain preliminary documents including drawings, outline specifications, and estimates of cost. Part 612 contains detailed information as to the preparation of these preliminary documents and discusses the use of the Job Program form as a check list. Since this procedure differs from that suggested in Part 612, local authorities are urged to study and follow the new procedure which is designed to expedite the problems arising in the preparation of preliminary plans and specifications.*† [Par. IX]

§ 638.10 *Preparation and submission of construction plans and specifications.* The attention of local authorities is invited particularly to Part 612, entitled "Preparation of Drawings and Specifications", which covers the preparation of plans and specifications in considerable detail. In this connection, the following items are of especial importance:

(a) *Compliance with state and local laws.* The local authority should, in the development of the plans, consult the necessary state and local officials to insure that the plans will conform to applicable local ordinances and state laws and should obtain the requisite approvals of the state and local officials having jurisdiction. If exceptions to the applicable local ordinances and state laws are necessary, assurances should be obtained that such exceptions can and will be made.

(b) *Utilities.*[5] In the development of the plans and specifications, it will be necessary to consult with the appropriate utility companies as to available facilities and as to the terms and conditions and rates at which any new utilities required will be provided. The comparative costs of the several alternative services, such as gas, electricity and steam, should be obtained so that the least expensive, not only as to development cost but also as to operating cost, may be adopted. In negotiating with utility companies as to estimated rates, the local authority should make full use of the services of the USHA representatives who are specially trained and qualified as advisers on such matters.

(c) *Municipal services.* Prior to the preparation of plans and specifications, the local authority will usually have made at least tentative arrangements with the local municipality regarding any improvements or extensions of municipal services that are to be furnished to the project by the municipality. Such tentative arrangements should be made final and definite as soon as practicable so that the architect may proceed with the final plans and specifications on an established basis. The following items should usually be considered and provided for in the development of the plans for the project: water service; sewer connections, both storm and sanitary; street lighting; construction of new streets or the repairing or resurfacing of existing ones; fire protection, including new fire lines and hydrants; rerouting of transportation lines and educational and playground facilities. Any necessary changes in zoning laws and building regulations should also be initiated at an early date.

(d) *Insurance.* In the preparation of plans and specifications, and in determining the proposed type of construction, the architect should take the prevailing insurance rates into consideration. The USHA is conducting negotiations with insurance rating bureaus and is prepared to advise the local authority as to the insurance rates applicable to the various types of construction. This information will aid the architect in developing a design that will be economical from the standpoint not only of original cost but also from that of operation and maintenance.

(e) *Site and unit plans.* Part 635, entitled "Planning the site", contains detailed suggestions concerning site planning, and Part 637, entitled "Dwelling Unit Planning", contains similar information as to unit planning. These suggestions as to site and unit planning are designed to serve primarily as guides in the development of the project. The USHA will, of course, encourage each local authority and each architect to exercise their skill and ingenuity in developing new ideas as to site and unit plans.

(f) *Construction contracts.* Part 610, entitled "Construction Contracts", considers the question of splitting the general construction work of a project into two or more sections and suggests that consideration be given to such procedure. A related question is that of separate contracts segregated as to types of construction. The local authority should endeavor wherever possible to put all of the related construction work under one contract and to avoid segregated contracts. However, it is recognized that in many instances this will be impracticable, and that more than one contract will be necessary. For example, in some cases it will be advisable to let a separate contract for landscaping. Again, the applicable state statutes may require that a segregated contract be let for each phase of the construction work, such as electrical, heating and ventilating, plumbing, and the like. If split or segregated contracts are to be let, the several contracts should be drawn so as to provide for full coordination and reduce interference to a minimum. Part 610 contains a suggested form of construction contract for the use and guidance of the local authority. This form contains all the applicable requirements of the Act and of Part III of the "Terms and Conditions". The whole question of the system of bidding and alternate bids is discussed in considerable detail in Part 612. Local authorities are particularly urged to give this discussion full and careful consideration.

(g) *Physical improvements after partial or complete occupancy.* The local authority should bear in mind that funds may be available for physical improvements to the project during the one-year period subsequent to the date on which the project is ready for complete occupancy, since any bonds within the maximum authorized amount of the bond issue which prove unnecessary to meet development costs already incurred may be issued for necessary additions and improvements during this one-year period. The local authority may, accordingly, find it advisable to omit certain items from the plans and specifications until the need for them has been established during a short period of operation. However, additional expenditures, if any, applicable to dwelling facilities must always be restricted to the extent necessary to keep total dwelling facilities cost within the maximum limitations prescribed in the Act.

(h) *Submission of plans and specifications.* The final plans and specifications will generally be reviewed in the field, while they are being prepared, by staff members of the USHA and working agreements will be reached from time to time to avoid delays in completion. In addition, when necessary and upon request of the local authority, any part or parts of the final plans may be submitted to the USHA in Washington for review, comment and advice during this period. The plans and specifications will not be given a final review in Washington prior to their acceptance for bidding purposes. Tentative agreements will, however, be reached in the field as to the appropriateness of the plans, specifications and other contract documents for bidding purposes. Such tentative agreements will be confirmed by the USHA, subject to such qualifications as may be necessary, at the time authorization to advertise for bids is granted. Ordinarily, the final review of

[5] See Part 643 for complete and detailed information as to planning utility services and rate negotiations.

plans and specifications will be made by the USHA in Washington after advertisement for bids and any comments and advices based on such review will be transmitted to the local authority in time for incorporation in addenda issued during the period of bidding. The local authority should, accordingly, schedule a period of advertising for bids long enough to permit the issuance of any such addenda which prove necessary or appropriate.*† [Par. X]

§ 638.11 *Preparation and submission of final estimates of total development cost.* After the preparation of the construction plans and specifications has been completed, the local authority shall submit to the USHA an itemized estimate of the total development cost of the project based upon the final plans and specifications, the actual costs incurred to date for all items (such as land, demolition, cost of preparing plans and specifications), the latest estimates of overhead costs and of all other costs relating to the project. This final estimate of total development cost shall be submitted to the USHA at the time when final plans and specifications are submitted. The final estimate of total development cost should be submitted in a form generally similar to that provided in the outline of the Job Program, plus supplementary information on estimates of alternates to be taken and also on the local authority's preference as to the alternates to be accepted. Any part of an item in the estimate form not included in the bids to be taken should appear under the same item number, separately from the parts on which bids are to be taken, with the estimated cost of each such separated part. Throughout the estimate those items on which bids are being taken should be specially designated. At the end of the Estimate there should also appear an estimated total of the amount of the construction contract on which bids are being taken, with notations of the alternates. It may be advantageous to arrange for staff members of the USHA to collaborate with the local authority in the field in the preparation of this final estimate of total development cost. The USHA has prepared, and will furnish upon request, a suggested form of Final Estimate of Total Development Cost. This form should facilitate the preparation of the Estimate. Four copies of the Final Estimate of Total Development Cost should be submitted by the local authority to the USHA.*† [Par. XI]

§ 638.12 *Securing of bids and the award of contracts*—(a) *Open and competitive bidding.* Any restriction as to the source of materials, equipment, supplies, bonds, or insurance involved in the execution of a contract obviously operates to limit open and competitive bidding and hence to increase costs. Therefore, except to the extent required by the laws of the state in which the public housing agency is located, no such restrictions should be included in any of the documents upon which bids are based. The technical specifications upon which contracts are based should be so drafted as to secure the widest competition possible and should not discriminate against any materials, supplies or equipment suitable for the purposes intended. To that end, and consistent with the objective of low capital costs as required by the Act, local authorities should, to the fullest extent possible, allow contractors the option of using one of two or more specified materials, supplies or items of equipment. While it is realized that this procedure is not always feasible and that it cannot fully supplant the practice of taking alternate bids, it is, nevertheless, generally productive of securing lower bids. The disadvantages of alternate bids are discussed hereinafter.

(b) *Alternate bids.* Since the United States Housing Act in effect requires that projects be of the lowest initial cost consistent with low rents, base bids must contemplate construction on that basis and the acceptance of alternate bids calling for increased expenditures cannot be justified by the USHA in approving contract awards. The introduction of a large number of alternate bids tends to discourage bidding and hence, in effect, may increase costs. Therefore, even alternate bids believed to be deductive should not be invited unless there is doubt as to whether the low base proposal will be within the loan contract or statutory limitations applicable to the project. A deductive alternative bid will generally involve the use of cheaper materials or methods which in turn will normally result in a higher maintenance or operating cost, or both, and therefore construction costs should be substantially reduced in order to justify the acceptance of such an alternate. For the above reasons, the USHA is opposed to approving acceptance of alternate bids unless the basis for such acceptance has been determined prior to the opening of bids. Local authorities are therefore requested to determine, prior to the opening of bids, the amount by which the construction cost, as evidenced by the lowest responsible base proposal, will be reduced in order to justify the acceptance of such alternate bids. Local authorities should advise the USHA, prior to the opening of bids, of the amounts so determined.

(c) *Unusual local conditions.* Occasionally there exists a combination of circumstances under which contractors from other localities are reluctant to compete in the bidding, or which will limit competition between local contractors or sub-contractors; these conditions are not always openly recognized or well understood but are vaguely known to exist and are accepted as insurmountable. The USHA believes that such difficulties may often be met if they are recognized at a time well in advance of advertising for bids. Local authorities are urged to bring to the attention of the USHA, for open and frank discussion, any circumstance or combination of circumstances which the local authority believes to be opposed to free and open competitive bidding and the USHA will cooperate to the fullest extent with the local authority in meeting each such problem.

(d) *Timing of bids.* With such a large volume of projects going on the market for bids it is highly important that the spread be as wide as possible in order to avoid an excessive number of bids being taken in one general locality during the same period of time. This is a problem which individual local authorities might not readily perceive since they are primarily concerned with their own projects, nevertheless, each authority may be adversely affected by poorly considered timing of bid dates over the country as a whole. The USHA, working with each local authority, schedules, well in advance, the dates when bids are to be received and local authorities agree with the USHA to work to these schedules. Since these schedules contemplate the widest feasible spread of bid opening dates in a given locality, it becomes highly necessary, for the benefit of the work as a whole, that each authority adhere closely to its own dates in the schedule. Therefore, local authorities, before committing themselves to a specified date, should feel quite sure that this can be met, and thereafter, should make every possible effort to meet its commitments; the USHA will cooperate with the local authority to that end. There may be occasions when the USHA will find it desirable, for the benefit of the program in its entirety, to suggest to a local authority that it modify the date of bid opening; local authorities are requested to cooperate in such procedure.

(e) *Period of bidding.* Local authorities should allow not less than 30 calendar days for bidding on any major construction work and if the plans and specifications are not ready for delivery on the date of advertising this period should be increased so that bidders may have the plans and specifications in their possession for a full 30 days. While it is true that three or even two weeks may be an adequate time for the actual work of taking off quantities and preparing bids, a longer period permits a more thorough combing of the market; moreover it often happens that contractors who would otherwise be interested are limited for time because of bidding on other work and in such cases they will not bid unless a generous time is allowed.

(f) *Breaking down large projects.* While the USHA has cautioned local authorities as to certain difficulties incident to breaking a project down into a large number of relatively small construction contracts (see Part 612), due consideration should be given to the fact that a large number of housing projects going on the market during a comparatively short period of time may limit the number of bidders who are able and willing to

contract for large projects. Thus, in many cases, it may be found increasingly necessary to divide large projects into two or more general construction parts in order to appeal to a wider range of contractors. However, the precautions referred to in Part 612 should continue to receive consideration; particularly the sub-division should not be too great, complicating alternate bids should be avoided, but one overall bid for the whole work must, in all cases, be taken unless prohibited by applicable state or local law.

(g) *Publicity.* The usual process of advertising for bids cannot always be depended upon to secure the necessary publicity and for that reason local authorities are urged to make every possible effort in order to secure the maximum number of bidders. The following are suggested as steps which would be advisable to take in each case:

(1) Wherever there are local or nearby agencies maintaining plan rooms, plans and specifications should be furnished to these without charge or on the basis of refundable deposits. While this does not ordinarily produce a larger number of general contractors, such a procedure will frequently result in a greater number of sub-contract bids to the general contractors, which, of course, tends to produce lower figures. The deposit required on sets of Plans and Specifications should always be reasonably consistent with their reproduction value.

(2) Normally it is advisable for local authorities to contact representative organizations of contractors and of construction bond companies; these latter may often obtain the interest of contractors in other cities through their branch offices.

(3) If the local authorities will furnish to the USHA a number of copies, preferably about 12, of the advertisement for bids immediately upon its publication, the USHA will arrange for quick dissemination of this information to national contractor organizations.

(4) It is desirable that the advertisement for bids be published in adjacent cities in addition to publication through the local press.

(h) *Withdrawal or modification of bids.* There have been cases where low bidders have sought to withdraw or increase their bids after the bids have been opened. The usual reason which is given in such cases is that an error has been made and that as a result the contractor could not fulfill his contract for the amount stipulated in the bid without suffering a loss. When such a question arises it warrants the most careful consideration, since, on the one hand, general experience has proven that unsatisfactory results derive from construction contracts below actual costs or even without opportunity for a reasonable profit, while, on the other hand, bidders are under bond to execute contracts for the amounts named in their bids and it seems reasonable to believe that experienced contractors will exercise the utmost care in preparing and checking their figures. Sub-paragraph (j) of this sec. 638.12 sets forth the USHA requirements which local authorities should follow in determining whether or not it is equitable to permit the withdrawal of a bid after the bids have been opened. Under no circumstances should a bidder be permitted to increase his bid after it has been opened; if such a proposed increase is based upon proven errors the bid should be rejected instead, subject to the USHA requirements set forth below.

(i) *Rejection of bids.* Local authorities will often be confronted with low bids from contractors whom they do not believe are financially, technically, or otherwise qualified to perform the work. Such situations are somewhat similar to those mentioned in the preceding section and merit the same careful consideration before action is taken, and local authorities should be guided by the USHA requirements included in sub-paragraph (j) in reaching their determinations.

(j) *USHA requirements.* The following requirements must be met by local authorities in order to comply with the provisions of USHA loan contracts relating to competitive bidding and award of contracts and to comply with the provisions of the United States Housing Act of 1937, as amended, requiring that USHA-aided projects shall not be of elaborate or expensive design or materials and that economy will be promoted in construction:

(1) All contracts, except those involving personal services requiring specialized skill or training, or where the amount involved is less than $300, for the furnishing of labor, labor and materials or any materials, supplies or equipment shall be publicly advertised.

(2) The specifications for all such contracts shall be drafted to insure the widest competition possible and no materials, supplies or equipment suitable for the purposes intended shall be discriminated against, nor shall the specifications designate any preference for local materials, equipment, supplies, bonds or insurance involved in the execution of such contracts unless required by the laws of the state in which the public housing agency is located.

(3) Local authorities shall contract for labor, labor and materials, or materials, equipment and supplies in a manner best suited to secure the development of the project in the most economical manner possible. Unless otherwise required by state laws, and, except for demolition work, landscaping and the furnishing of those materials, supplies and equipment which are usually not included in normal construction contracts, a bid for the entire work in connection with the development of the project shall be requested even though bids are also requested for the same work in parts. The work in connection with the development of the project shall not be divided so as to place an unreasonable administrative burden on the local authority or so as to encourage possible collusion among bidders.

(4) Alternate bids shall be limited to the minimum required for economical and sound construction.

(5) Every contract shall be awarded to the lowest responsible bidder as soon as practicable after the opening of bids, unless such bid is in excess of the estimated cost of such work or is otherwise considered to be for an unreasonable amount.

(6) Bidders shall not be permitted to withdraw their bids subsequent to the time of opening because of an alleged mistake in the amount of their bids unless the amount of the bids are such as to place a reasonable man on notice that an error has been committed by the bidder and further that an award, under such circumstances, would be inequitable. Where a bidder claims that a mistake has been made, the local authority to which the bid was submitted shall require, before taking action in regard to any request for the withdrawal of a bid, the submittal by the bidder of his original estimating sheets from which the bid was computed, a sworn statement to the effect that an error has been made by the bidder and all evidence in the possession of the bidder tending to corroborate the claim of error.

(7) No bidder shall be permitted by a local authority to withdraw his bid unless the bid submitted is at least 10% lower than the estimated cost of the work included in the contract, as prepared by the local authority and approved by the USHA.

(8) No bid shall be rejected by a local authority because of lack of responsibility of the bidder unless it is plainly evident that the bidder is either:

(i) not financially qualified to carry out his contract; or

(ii) not technically fitted to carry out the proposed work either through lack of experience, adequate personnel and equipment; or

(iii) has refused or failed to accept the award of a contract tendered to him in accordance with a bid submitted by him; or

(iv) unless his record in the performance of other contracts is such as would plainly show that the bidder is not responsible.

(9) Before rejecting any low bidder on the basis of irresponsibility, the local authority shall make definite findings of the facts upon which its conclusion of irresponsibility is based and shall submit the same to the USHA. Mere matters of opinion unsupported by any facts evidencing the lack of responsibility of the contractor will not be accepted as a basis for rejecting a low bidder.

(10) No contract for equipment, supplies, or materials shall be awarded to

other than the low bidder in the interest of standardization of equipment or materials, ultimate economy or expeditious development of the project unless:

(i) prior to the opening of bids the local housing authority submits to the USHA notice of its intention to take these factors into consideration in awarding bids; (such notice shall set forth the differential to be used by the local authority in determining the bidder to whom the contract is to be awarded); and

(ii) the USHA has approved, in advance of the award, the procedure to be followed and the differential or formula for determining the same.

(11) The USHA has the right to refuse to lend further financial assistance in the way of the purchase of bonds or the making of annual contributions or both, either as to the entire project or as to the amount of the contract involved, in the event of a violation by a local authority of the requirements of this subparagraph (j).*† [Par. XII]

§ 638.13 *Transmittal of bids to USHA.* Upon receipt of bids, the local authority will study them, and before awarding a contract, submit to the USHA the original and four copies of a statement as to the award or awards it proposes to make, including the disposition of alternates. With this statement there should be included the following:

(a) Four copies of a tabulation of bids and an analysis thereof on the basis of the proposed award.

(b) Four copies of a comparison of the Final Estimate of Total Development Cost as earlier submitted and modified, with the computation of Total Development Cost and of Dwelling Facility Costs per room and per unit as contemplated in the proposed contracts. This comparison shall be based upon the proposed awards and the estimated (or actual) costs of items not included in the proposed awards.

(c) Four copies of all addenda and other information, including drawings, issued during the bidding period.

(d) One original and three conformed copies of all bids, including all forms in connection therewith.

(e) Four copies of other pertinent information which may have been prepared and is considered useful in reaching a determination with regard to the award of contracts and disposition of alternates. The materials specified in subparagraphs (a) through (e), above, shall be furnished to the Construction Adviser for delivery or forwarding to the USHA in Washington. The USHA will check the bid figures against the Final Estimate of Total Development Cost and against the provisions of the Act and Loan Contract and will then notify the local authority that the proposed award is (1) acceptable, (2) acceptable subject to certain qualifications, or (3) not acceptable for specified reasons. If the proposed award is acceptable to the USHA, the local authority may execute the construction contract with the successful bidder. One executed counterpart of the construction contract (including accompanying plans and specifications) and four conformed copies of the executed contract (but including only *two* sets of plans) shall be furnished promptly to the USHA. If these copies are all in good order, the USHA will return one set to the local authority with an indication that they are approved for construction. Upon receipt of such approval by the USHA, the local authority will, ordinarily, advise the contractor to commence work under his contract and the actual construction of the project will begin.*† [Par. XIII]

NATHAN STRAUS,
Administrator.

DECEMBER 21, 1939.

[F. R. Doc. 39-4831; Filed, December 29, 1939; 11:32 a. m.]

TITLE 25—INDIANS

CHAPTER I—OFFICE OF INDIAN AFFAIRS

AMENDMENT OF REGULATIONS FOR LOANS TO INDIVIDUAL INDIANS (OKLAHOMA)

Section 26.3 of Title 25, Chapter 1, Office of Indian Affairs, Department of the Interior, Sub-Chapter E, Part 26, Loans by United States to Individual Indians, (Oklahoma), which reads:

§ 26.3 *General loan policies.* The granting or refusal of the loan and the amount thereof shall be governed by the nature and extent of the enterprise to be financed, its prospects of success and assurance that the loan will be repaid, the equipment and funds otherwise available for execution of the plan, the extent to which the enterprise will promote a permanent improvement in the applicant's economic condition, the character and past performance of the applicant, both generally and in the particular work involved in the enterprise, and the amount and kind of security offered. An Indian who is a member of an incorporated tribe, or who resides in the territory of an Indian credit association must show that his application to such tribe or association has been rejected before an application hereunder will be accepted.

is amended to read:

§ 26.3 *General loan policies.* The granting or refusal of the loan and the amount thereof shall be governed by the nature and extent of the enterprise to be financed, its prospects of success and assurance that the loan will be repaid, the equipment and funds otherwise available for execution of the plan, the extent to which the enterprise will promote a permanent improvement in the applicant's economic condition, the character and past performance of the applicant, both generally and in the particular work involved in the enterprise, and the amount and kind of security offered. An Indian who is a member of an incorporated tribe, or who resides in the territory of an Indian credit association, which has received a loan from the United States and is conducting operations with revolving credit funds, must show that his application to such tribe or association has been rejected before an application hereunder will be accepted.

OSCAR L. CHAPMAN,
Assistant Secretary.

DECEMBER 13, 1939.

[F. R. Doc. 39-4828; Filed, December 29, 1939; 9:50 a. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[T. D. 4959]

INCOME TAX

REGULATIONS RELATING TO ELECTIVE METHOD OF TAKING INVENTORIES FOR YEARS BEGINNING SUBSEQUENT TO DECEMBER 31, 1938

To Collectors of Internal Revenue and Others Concerned:

In order to conform Regulations 101[1] (Part 9, Subpart H, Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code (53 Stat. Part 1) by Treasury Decision 4885,[2] approved February 11, 1939 (Part 465, Subpart B, Title 26, Code of Federal Regulations), to section 219 of the Revenue Act of 1939 (Public, No. 155, 76th Cong. 1st sess.) amending section 22 (d) of the Internal Revenue Code, such Regulations are amended as follows:

(1) The following is inserted immediately preceding article 22 (d)-1 (section 9.22 (d)-1, Title 26, Code of Federal Regulations), as made applicable to the Internal Revenue Code:

"Sec. 219. Inventories (Revenue Act of 1939)

"SEC. 219. INVENTORIES.

"(a) *Amendment to Code.* Section 22 (d) of the Internal Revenue Code (relating to inventories in certain industries) is amended to read as follows:

"'(d) (1) A taxpayer may use the following method (whether or not such method has been prescribed under subsection (c)) in inventorying goods specified in the application required under paragraph (2):

"'(A) Only in inventorying goods (re-

"'(B) Treat those remaining on hand at the close of the taxable year as being: First, those included in the opening inventory of the taxable year (in the order

[1] 4 F.R. 616, 700, 802 DI.
[2] 4 F.R. 879 DI.

of acquisition) to the extent thereof, and second, those acquired in the taxable year; and

"'(C) Treat those included in the opening inventory of the taxable year in which such method is first used as having been acquired at the same time and determine their cost by the average cost method.

"'(2) The method described in paragraph (1) may be used—

"'(A) Only in inventorying goods(required under subsection (c) to be inventoried) specified in an application to use such method filed at such time and in such manner as the Commissioner may prescribe; and

"'(B) Only if the taxpayer establishes to the satisfaction of the Commissioner that the taxpayer has used no procedure other than that specified in subparagraphs (B) and (C) of paragraph (1) in inventorying (to ascertain income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) such goods for any period beginning with or during the first taxable year for which the method described in paragraph (1) is to be used.

"'(3) The change to, and the use of, such method shall be in accordance with such regulations as the Commissioner, with the approval of the Secretary, may prescribe as necessary in order that the use of such method may clearly reflect income.

"'(4) In determining income for the taxable year preceding the taxable year for which such method is first used, the closing inventory of such preceding year of the goods specified in such application shall be at cost.

"'(5) If a taxpayer, having complied with paragraph (2), uses the method described in paragraph (1) for any taxable year, then such method shall be used in all subsequent taxable years unless—

"'(A) With the approval of the Commissioner a change to a different method is authorized; or

"'(B) The Commissioner determines that the taxpayer has used for any period beginning with or during any subsequent taxable year some procedure other than that specified in subparagraph (B) of paragraph (1) in inventorying (for ascertaining income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries) the goods specified in the application, and requires a change to a method different from that prescribed in paragraph (1) beginning with such subsequent taxable year or any taxable year thereafter.

"'In either of the above cases, the change to, and the use of, the different method shall be in accordance with such regulations as the Commissioner, with the approval of the Secretary, may prescribe as necessary in order that the use of such method may clearly reflect income.'

"(b) *Taxable years to which applicable.* The amendment made by subsection (a) shall be applicable to taxable years beginning after December 31, 1938.

"(c) *Amendment to 1938 act.* Section 22 (d) of the Revenue Act of 1938 (relating to inventories in certain industries) is amended to read as follows:

"'(d) If the inventory method described in section 22 (d) (1), as amended, of the Internal Revenue Code is used for the first taxable year beginning after December 31, 1938, then, in determining income for the preceding taxable year, the closing inventory of such year of the goods specified in the application under section 22 (d) (2), as amended, of such Code shall be at cost.'"

(2) Article 22 (c)–1 [section 9.22 (c)–1, Title 26, Code of Federal Regulations] is amended by inserting at the end thereof the words,

"(But see article 22 (d)–1.)"

(3) Article 22 (c)–2 [section 9.22 (c)–2, Title 26, Code of Federal Regulations] is amended by inserting at the end of the first sentence of the fourth paragraph thereof the words,

"except as to those goods inventoried under the elective method authorized by section 22 (d),"

so that the sentence so amended will read as follows:

"In respect of normal goods, whichever basis is adopted must be applied with reasonable consistency to the entire inventory except as to those goods inventoried under the elective method authorized by section 22 (d)."

(4) Article 22 (c)–2 is further amended by inserting in lieu of the sixth sentence of the fourth paragraph thereof the following sentence:

"But see section 22 (d) as to inventories under elective method."

(5) Article 22 (c)–7 [section 9.22 (c)–7, Title 26, Code of Federal Regulations] is amended by inserting in lieu of the last sentence thereof the following sentence:

"See section 22 (d) as to inventories under elective method."

(6) Articles 22 (d)–1 to 22 (d)–4 [sections 9.22 (d)–1 to 9.22 (d)–4, Title 26, Code of Federal Regulations], inclusive, are stricken out and there is substituted in lieu thereof the following:

"ART. 22 (d)–1 [section 9.22 (d)–1, Title 26, Code of Federal Regulations, 1939 Sup.]. *Inventories under elective method.* Any taxpayer permitted or required to take inventories pursuant to the provisions of section 22 (c) of the Internal Revenue Code, and pursuant to the provisions of articles 22 (c)–1 to 22 (c)–8 of these regulations [sections 9.22 (c)–1 to 9.22 (c)–8, Title 26, Code of Federal Regulations] may elect with respect to those goods specified in his application and properly subject to inventory to compute his opening and closing inventories in accordance with the method provided by section 22 (d) of the Code as amended by section 219 of the Revenue Act of 1939. Under this elective inventory method, the taxpayer is permitted to treat those goods remaining on hand at the close of the taxable year as being:

"First, those included in the opening inventory of the taxable year, in the order of acquisition and to the extent thereof, and

"Second, those acquired during the taxable year.

This elective inventory method is not dependent upon the character of the business in which the taxpayer is engaged, or upon the identity or want of identity through commingling of any of the goods on hand, and may be adopted by the taxpayer as of the close of any taxable year beginning after December 31, 1938.

"If the elective inventory method is used by a taxpayer who regularly and consistently, in a manner similar to hedging on a futures market, matches purchases with sales, then firm purchase and sales contracts (i. e., those not legally subject to cancellation by either party) entered into at fixed prices on or before the date of the inventory may be included in purchases or sales, as the case may be, for the purpose of determining the cost of goods sold and the resulting profit or loss, provided that this practice is regularly and consistently adhered to by the taxpayer and that, in the opinion of the Commissioner, income is clearly reflected thereby.

"ART. 22 (d)–2 [section 9.22 (d)–2, Title 26, Code of Federal Regulations, 1939 Sup.]. *Requirements incident to adoption and use of elective method.* The adoption and use of the elective inventory method is, by statute and by these regulations, made subject to the following requirements:

"(1) The taxpayer shall file pursuant to these regulations an application to use such method specifying with particularity the goods to which it is to be applied;

"(2) The inventory shall be taken at cost regardless of market values;

"(3) Goods of the specified type included in the opening inventory of the taxable year for which the method is first used shall be considered as having been acquired at the same time and at a unit cost equal to the actual cost of the aggregate divided by the number of units on hand, such actual cost of the aggregate being determined pursuant to the inventory method employed by the taxpayer under the regulations applicable to the preceding taxable year;

"(4) Goods of the specified type on hand as of the close of the taxable year in excess of what were on hand as of the beginning of the taxable year shall be included in the closing inventory,

regardless of identification with specific invoices, at costs determined as follows:

"(a) By reference to the actual cost of the goods most recently purchased or produced;

"(b) By reference to the actual cost of the goods purchased or produced during the taxable year in the order of acquisition;

"(c) By application of an average unit cost equal to the aggregate cost of all of the goods purchased or produced throughout the taxable year divided by the total number of units so purchased or produced, the goods reflected in such inventory increase being considered for the purposes of section 22 (d) as having been acquired all at the same time; or

"(d) Pursuant to any other proper method which, in the opinion of the Commissioner, clearly reflects income.

Whichever of the several methods of valuing the inventory increase is adopted by the taxpayer and approved by the Commissioner in accordance with these regulations shall be consistently adhered to in all subsequent taxable years so long as the elective inventory method is used by the taxpayer;

"Example 1. Suppose that the taxpayer adopts the elective inventory method for the taxable year 1939 with an opening inventory of 10 units at 10 cents per unit, that it makes 1939 purchases of 10 units as follows:

Jan.	1	@ 11 =	11
Apr.	2	@ 12 =	24
July	3	@ 13 =	39
Oct.	4	@ 14 =	56
Totals:	10		130

and that it has a 1939 closing inventory of 15 units. This closing inventory, depending upon the taxpayer's method of valuing inventory increases, will be computed as follows:

"(a) Most recent purchases—

10	@ 10		= 100
4	@ 14	(Oct.)	= 56
1	@ 13	(July)	= 13
Totals: 15			169

or

"(b) In order of acquisition—

10	@ 10		= 100
1	@ 11	(Jan.)	= 11
2	@ 12	(Apr.)	= 24
2	@ 13	(July)	= 26
Totals: 15			161

or

"(c) At an annual average —

10	@ 10		= 100
5	@ 13	(130/10)	= 65
Totals: 15			165

"Example 2. Suppose, in addition to the facts stated in Example 1, that there is a 1940 closing inventory of 13 units. This closing inventory, being determined wholly by reference to the opening inventory, and being taken in the order of acquisition, and depending upon the taxpayer's method of valuing its inventory increase for the preceding taxable year, will be computed as follows:

"(a) In case the increase was taken as most recent purchases—

10	@ 10	(from 1938)	= 100
1	@ 13	(July 1939)	= 13
2	@ 14	(Oct. 1939)	= 28
Totals: 13			141

or

"(b) In case the increase was taken in order of acquisition—

10	@ 10	(from 1938)	= 100
1	@ 11	(Jan. 1939)	= 11
2	@ 12	(Apr. 1939)	= 24
Totals: 13			135

or

"(c) In case increase was taken on basis of an average—

10	@ 10	(from 1938)	= 100
3	@ 13	(from 1939)	= 39
Totals: 13			139

"(5) The taxpayer shall establish to the satisfaction of the Commissioner that the taxpayer has not, in the taxable year for which the elective inventory method is first used or in any subsequent taxable year, used in determining income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries, any inventory method other than that referred to in article 22 (d)–1 [section 9.22 (d)–1, Title 26, Code of Federal Regulations, 1939 Sup.] or at variance with the requirement referred to in paragraph (3) of this article, the taxpayer's use of market value in lieu of cost not being considered at variance with this requirement;

"(6) Goods of the specified type on hand as of the close of the taxable year preceding the taxable year for which this inventory method is first used, whether such preceding taxable year began before or after December 31, 1938, shall be included in the taxpayer's inventory for such preceding taxable year at cost;

"(7) The elective inventory method once adopted by the taxpayer with the approval of the Commissioner, shall be adhered to in all subsequent taxable years unless—

"(a) A change to a different method is approved by the Commissioner; or

"(b) The Commissioner determines that the taxpayer has used in ascertaining income, profit, or loss, for credit purposes, or for the purpose of reports to shareholders, partners, or other proprietors, or to beneficiaries, and for years subsequent to his adoption of the elective inventory method, an inventory method at variance with that referred to in article 22 (d)–1 and requires of the taxpayer a change to a different method for such subsequent taxable year or any taxable year thereafter;

"(8) The taxpayer shall maintain such accounting records as will enable the Commissioner readily to verify the taxpayer's inventory computations as well as his compliance with these several requirements.

"ART. 22 (d)–3 [section 9.22 (d)–3, Title 26, Code of Federal Regulations, 1939 Sup.]. *Time and manner of making election.* The elective inventory method may be adopted and used only if the taxpayer files with his return for the taxable year as of the close of which the method is first to be used (or, if such return is filed prior to the ninetieth day after the approval of these regulations, then at any time prior to the expiration of such ninetieth day), in triplicate on Form 970 (revised), and pursuant to the instructions printed thereon and to the requirements of these regulations, a statement of his election to use such inventory method. Such statement shall be accompanied by an analysis of all inventories of the taxpayer as of the beginning and as of the end of the taxable year for which the elective method is proposed first to be used, and also as of the beginning of the preceding taxable year. In the case of a manufacturer, this analysis shall show in detail the manner in which costs are computed with respect to raw materials, goods in process, and finished goods, segregating the products (whether in process or finished goods) into natural groups on the basis of either (1) similarity in factory processes through which they pass, or (2) similarity of raw materials used, or (3) similarity in style, shape, or use of finished products. Each group of products shall be clearly described.

"The taxpayer shall submit for the consideration of the Commissioner in connection with the taxpayer's adoption or use of the elective inventory method such other detailed information with respect to his business or accounting system as may be at any time requested by the Commissioner.

"As a condition to the taxpayer's use of the elective inventory method, the Commissioner may require that the method be used with respect to goods other than those specified in the taxpayer's statement of election if, in the opinion of the Commissioner, the use of such method with respect to such other goods is essential to a clear reflection of income.

"Whether or not the taxpayer's application for the adoption and use of the elective inventory method should be approved, and whether or not such method, once adopted, may be continued, and the propriety of all computations incidental to the use of such method will be determined by the Commissioner in connection with the examination of the taxpayer's returns.

"ART. 22 (d)–4 [section 9.22 (d)–4, Title 26, Code of Federal Regulations, 1939 Sup.]. *Adjustments to be made by taxpayer.* A taxpayer may not change to

the elective method of taking inventories unless, at the time he files his application for the adoption of such method, he agrees to such adjustments incident to the change to or from such method, or incident to the use of such method, in the inventories of prior taxable years or otherwise, as the Commissioner upon the examination of the taxpayer's returns may deem necessary in order that the true income of the taxpayer will be clearly reflected for the years involved.

"ART. 22 (d)-5 [section 9.22 (d)-5, Title 26, Code of Federal Regulations, 1939 Sup.]. *Revocation of election.* An election made to adopt and use the elective inventory method is irrevocable, and the method once adopted shall be used in all subsequent taxable years, unless the use of another method be required by the Commissioner, or authorized by him pursuant to a written application therefor filed with him as provided in article 41-2 of these regulations [section 9.41-2, Title 26, Code of Federal Regulations]

"ART. 22 (d)-6 [section 9.22 (d)-6, Title 26, Code of Federal Regulations, 1939 Sup.]. *Change from elective inventory method.* If the taxpayer is granted permission by the Commissioner to discontinue the use of the elective method of taking inventories, and thereafter to pursue some other method, or if the taxpayer is required by the Commissioner to discontinue the use of the elective method by reason of the taxpayer's failure to conform to the requirements detailed in article 22 (d)-2, the inventory of the specified goods for the first taxable year affected by the change and for each taxable year thereafter shall be taken—

"(a) In conformity with the method used by the taxpayer under section 22 (c) in inventorying goods not included in his elective inventory computations; or

"(b) If the elective inventory method was used by the taxpayer with respect to all of his goods subject to inventory, then in conformity with the inventory method used by the taxpayer prior to his adoption of the elective inventory method; or

"(c) If the taxpayer had not used inventories prior to his adoption of the elective inventory method and had no goods currently subject to inventory by a method other than the elective method, then in conformity with such inventory method as may be selected by the taxpayer and approved by the Commissioner as resulting in a clear reflection of income; or

"(d) In any event, in conformity with any inventory method to which the taxpayer may change pursuant to application approved by the Commissioner."

(This Treasury Decision is issued under the authority of section 22 (d) of the Internal Revenue Code (53 Stat. Part 1) as amended by section 219 of the Revenue Act of 1939 (Public, No. 155, 76th Cong., 1st sess.) and section 62 of the said Internal Revenue Code.)

[SEAL] JOHN L. SULLIVAN,
Acting Commissioner of Internal Revenue.

Approved, December 28, 1939.

JOHN W. HANES,
Acting Secretary of the Treasury.

[F. R. Doc. 39-4842; Filed, December 29, 1939; 12:44 p. m.]

Notices

DEPARTMENT OF AGRICULTURE.

Agricultural Adjustment Administration.

[Cotton 429]

COUNTY COTTON ACREAGE ALLOTMENTS FOR 1940

The county cotton acreage allotments established with respect to the marketing year beginning August 1, 1940, in accordance with the provisions of Section 344 of the Agricultural Adjustment Act of 1938 for the purposes of the cotton marketing quota provisions (Part IV, Subtitle B, Title (III) of said Act are as follows:

COTTON ACREAGE ALLOTMENT IN ACRES

Alabama: Autauga, 29,101; Baldwin, 5,753; Barbour, 39,929; Bibb, 11,602; Blount, 31,196; Bullock, 29,259; Butler, 30,561; Calhoun, 27,038; Chambers, 38,276; Cherokee, 34,673; Chilton, 25,387; Choctaw, 16,016; Clarke, 19,449; Clay, 17,904; Cleburne, 12,625; Coffee, 39,772; Colbert, 31,871; Conecuh, 26,564; Coosa, 11,135; Covington, 40,792; Crenshaw, 33,118; Cullman, 48,344; Dale, 24,431; Dallas, 66,193; De Kalb, 43.149; Elmore, 44,081; Escambia, 19,536; Etowah, 28,076; Fayette, 22,181; Franklin, 26,046; Geneva, 39,179; Greene, 28,792; Hale, 37,696; Henry, 33,365; Houston, 50,187; Jackson, 36,010; Jefferson, 8,726; Lamar, 26,824; Lauderdale, 46,467; Lawrence, 48,325; Lee, 38,026; Limestone, 61,093; Lowndes, 28,004; Macon, 40,166; Madison, 77,438; Marengo, 48,237; Marion, 24,887; Marshall, 48,917; Mobile, 6,505; Monroe, 38,098; Montgomery, 31,681; Morgan, 41,734; Perry, 38,464; Pickens, 36,419; Pike, 42.606; Randolph, 29,308; Russell, 30,952; St. Clair, 16,933; Shelby, 14,351; Sumter, 33,077; Talladega, 38,857; Tallapoosa, 29,573; Tuscaloosa, 36,916; Walker, 17,509; Washington, 5,448; Wilcox, 28,942; Winston, 15,637; total county allotments, 2,129,407; 4% reserve, 76,082; reserve for new growers, 38,041; total, Alabama, 2,243,530.

Arizona: Cochise, 12; Gila, 12; Graham, 12,858; Greenlee, 971; Maricopa, 111,090; Mohave, 18; Pima, 6,551; Pinal, 44,594; Santa Cruz, 564; Yuma, 13,055; total county allotments, 189,725; 4 percent reserve, 4,649; reserve for new growers, 2,324; total—Arizona, 196,698.

Arkansas: Arkansas, 14,645; Ashley, 37,448; Baxter, 3,045; Boone, 660; Bradley, 17,983; Calhoun, 14,848; Carroll, 1; Chicot, 49,942; Clark, 23,345; Clay, 39,667; Cleburne, 14,347; Cleveland, 23,444; Columbia, 52,268; Conway, 38,878; Craighead, 64,830; Crawford, 9,339; Crittenden, 99,316; Cross, 40,104; Dallas, 10,343; Desha, 45,825; Drew, 26,944; Faulkner, 45,250; Franklin, 10,181; Fulton, 6,806; Garland, 2,781; Grant, 9,289; Greene, 34,249; Hempstead, 44,846; Hot Spring, 9,508; Howard, 20,540; Independence, 23,996; Izard, 14,333; Jackson, 55,669; Jefferson, 81,006; Johnson, 9,515; Lafayette, 34,696; Lawrence, 33,358; Lee, 56,450; Lincoln, 47,919; Little River, 27,310; Logan, 22,977; Lonoke, 70,178; Marion, 3,063; Miller, 40,322; Mississippi, 179,566; Monroe, 40,847; Montgomery, 6,043; Nevada, 30,332; Newton, 716; Ouachita, 17,141; Perry, 10,542; Phillips, 68,832; Pike, 10,296; Poinsett, 51,300; Polk, 5,850; Pope, 33,289; Prairie, 17,347; Pulaski, 41,190; Randolph, 20,602; St. Francis, 66,979; Saline, 3,929; Scott, 9,017; Searcy, 2,186; Sebastian, 10,877; Sevier, 11,484; Sharp, 12,370; Stone, 3,180; Union, 27,028; Van Buren, 11,786; Washington, 80; White, 53,818; Woodruff, 43,424; Yell, 33,040; total county allotments, 2,154,555; 4 percent reserve, 77,282; reserve for new growers, 38,641; total—Arkansas, 2,270,478.

California: Fresno, 85,274; Imperial, 8,371; Kern, 75,839; Kings, 40,750; Madera, 50,126; Merced, 28,127; Riverside, 12,140; San Benito, 180; San Bernardino, 43; San Diego, 36; San Joaquin, 42; Stanislaus, 1,267; Tulare, 89,470; total county allotments, 391,665; 4 percent reserve, 9,014; reserve for new growers, 4,507; Total—California, 405,186.

Florida: Alachua, 519; Baker, 188; Bay, 91; Bradford, 3; Calhoun, 741; Columbia, 2,719; Dixie, 30; Escambia, 4,125; Flagler, 1; Gadsden, 344; Gilchrist, 44; Gulf, 5; Hamilton, 3,609; Holmes, 9,404; Jackson, 14,955; Jefferson, 3,101; Lafayette, 777; Leon, 4,428; Levy, 170; Madison, 5,693; Marion, 7; Okaloosa, 4,813; Putnam, 3; Santa Rosa, 8,774; Sumter, 69; Suwannee, 3,966; Taylor, 166; Union, 54; Volusia, 1; Wakulla, 103; Walton, 5,059; Washington, 2,420; all others, 44; total county allotments, 76,426; 4 percent reserve, 2,867; reserve for new growers, 1,434; Total—Florida, 80,727.

Georgia: Appling, 8,771; Atkinson, 2,875; Bacon, 4,763; Baker, 8,412; Baldwin, 8,582; Banks, 10,925; Barrow, 16,562; Bartow, 28,501; Ben Hill, 10,044; Berrien, 7,168; Bibb, 4,090; Bleckley, 13,832; Brantley, 237; Brooks, 15,070; Bryan, 1,194; Bulloch, 35,261; Burke, 63,982; Butts, 10,448; Calhoun, 10,687; Camden, 19; Candler, 12,349; Carroll, 44,036; Catoosa, 4,466; Charlton, 37; Chatham, 211; Chattahoochee, 3,129; Chattooga, 11,873; Cherokee, 13,237; Clarke, 7,626; Clay, 8,638; Clayton, 6,967; Clinch, 313; Cobb, 18,523; Coffee, 13,069; Colquitt, 27,284; Columbia, 12,157; Cook, 5,239;

Coweta, 20,636; Crawford, 7,379; Crisp, 18,551; Dade, 1,422; Dawson, 2,555; Decatur, 7,274; De Kalb, 6,995; Dodge, 32,650; Dooly, 34,031; Dougherty, 4,662; Douglas, 9,114; Early, 25,928; Echols, 379; Effingham, 4,237; Elbert, 21,990; Emanuel, 40,217; Evans, 6,468; Fayette, 13,072; Floyd, 24,337; Forsyth, 15,409; Franklin, 23,287; Fulton, 15,877; Gilmer, 566; Glascock, 8,515; Glynn, 9; Gordon, 20,055; Grady, 6,469; Greene, 11,094; Gwinnett, 29,312; Habersham, 3,393; Hall, 17,923; Hancock, 14,267; Haralson, 12,307; Harris, 9,383; Hart, 28,106; Heard, 13,661; Henry, 27,365; Houston, 15,082; Irwin, 16,384; Jackson, 28,397; Jasper, 10,865; Jeff Davis, 4,021; Jefferson, 35,208; Jenkins, 23,668; Johnson, 24,322; Jones, 4,599; Lamar, 9,347; Lanier, 1,255; Laurens, 54,720; Lee, 6,220; Liberty, 1,198; Lincoln, 9,894; Long, 1,317; Lowndes, 6,655; Lumpkin, 1,637; McDuffie, 14,736; McIntosh, 11; Macon, 27,917; Madison, 22,670; Marion, 9,533; Meriwether, 26,592; Miller, 9,836; Mitchell, 24,004; Monroe, 8,153; Montgomery, 12,659; Morgan, 20,585; Murray, 9,236; Muscogee, 3,778; Newton, 15,593; Oconee, 14,138; Oglethorpe, 20,405; Paulding, 14,036; Peach, 9,653; Pickens, 4,887; Pierce, 4,469; Pike, 16,900; Polk, 17,396; Pulaski, 15,406; Putnam, 6,426; Quitman, 4,170; Randolph, 20,095; Richmond, 10,733; Rockdale, 7,820; Schley, 8,950; Screven, 32,494; Seminole, 7,054; Spalding, 10,931; Stephens, 6,680; Stewart, 10,850; Sumter, 25,598; Talbot, 6,200; Taliaferro, 7,872; Tattnall, 10,109; Taylor, 14,885; Telfair, 15,106; Terrell, 21,016; Thomas, 11,356; Tift, 11,515; Toombs, 17,520; Treutlen, 12,063; Troup, 15,046; Turner, 11,869; Twiggs, 9,452; Upson, 7,475; Walker, 10,024; Walton, 32,476; Ware, 2,132; Warren, 20,618; Washington, 30,358; Wayne, 6,285; Webster, 6,092; Wheeler, 14,302; White, 2,971; Whitfield, 9,506; Wilcox, 25,153; Wilkes, 19,391; Wilkinson, 8,632; Worth, 26,540; total county allotments, 2,104,699; 4 percent reserve, 74,307; reserve for new growers, 37,154; total—Georgia, 2,216,160.

Illinois: Alexander, 3,345; Jackson, 4; Pulaski, 1,551; total county allotments, 4,900; 4 percent reserve, 200; reserve for new growers, 100; total—Illinois, 5,200.

Kansas: Chautauqua, 47; Montgomery, 852; total county allotments, 899; 4 percent reserve, 37; reserve for new growers, 18; total—Kansas, 954.

Kentucky: Ballard, 23; Barren, 8; Calloway, 1,637; Carlisle, 643; Fulton, 10,144; Graves, 685; Hickman, 3,977; McCracken, 30; Marshall, 724; Trigg, 6; total county allotments, 17,877; 4 percent reserve, 624; reserve for new growers, 312; total—Kentucky, 18,813.

Louisiana: Acadia, 24,627; Allen, 3,908; Ascension, 1,085; Assumption, 16; Avoyelles, 33,619; Beauregard, 3,000; Bienville, 42,927; Bossier, 42,623; Caddo, 71,570; Calcasieu, 4,673; Caldwell, 9,531; Cameron, 4,648; Catahoula, 17,054; Claiborne, 54,724; Concordia, 16,219; De Soto, 49,182; East Baton Rouge, 7,432; East Carroll, 31,709; East Feliciana, 13,318; Evangeline, 30,619; Franklin, 58,244; Grant, 9,650; Iberia, 2,167; Iberville, 1,030; Jackson, 13,379; Jefferson, 18; Jefferson Davis, 7,378; Lafayette, 30,062; Lafourche, 1,221; La Salle, 2,413; Lincoln, 38,628; Livingston, 2,335; Madison, 24,455; Morehouse, 38,321; Natchitoches, 49,653; Orleans, 21; Ouachita, 22,550; Pointe Coupee, 16,522; Rapides, 27,169; Red River, 33,442; Richland, 50,036; Sabine, 20,953; St. Charles, 2; St. Helena, 5,682; St. James, 78; St. John the Baptist, 5; St. Landry, 56,245; St. Martin, 9,933; St. Mary, 215; St. Tammany, 2,076 Tangipahoa, 6,866; Tensas, 27,792; Terrebonne, 2; Union, 34,719; Vermillion, 18,913; Vernon, 8,391; Washington, 20,211; Webster, 36,691; West Baton Rouge, 1,313; West Carroll, 29,589; West Feliciana, 5,908; Winn, 9,761; total county allotments, 1,186,523; 4 percent reserve, 42,811; reserve for new growers, 21,405; total—Louisiana, 1,250,739.

Mississippi: Adams, 10,861; Alcorn, 20,671; Amite, 24,697; Attala, 26,620; Benton, 13,465; Bolivar, 166,082; Calhoun, 20,207; Carroll, 26,236; Chickasaw, 24,433; Choctaw, 10,797; Claiborne, 13,718; Clarke, 13,542; Clay, 18,632; Coahoma, 107,620; Copiah, 19,915; Covington, 23,377; De Soto, 51,182; Forrest, 5,158; Franklin, 9,722; George, 4,021; Greene, 3,005; Grenada, 18,739; Hancock, 414; Harrison, 504; Hinds, 54,779; Holmes, 59,650; Humphreys, 58,468; Issaquena, 20,010; Itawamba, 20,767; Jackson, 330; Jasper, 21,044; Jefferson, 13,924; Jefferson Davis, 26,370; Jones, 24,646; Kemper, 25,878; Lafayette, 23,668; Lamar, 8,758; Lauderdale, 21,154; Lawrence, 18,531; Leake, 27,860; Lee, 42,465; Leflore, 95,828; Lincoln, 24,702; Lowndes, 28,090; Madison, 54,513; Marion, 23,016; Marshall, 39,371; Monroe, 46,039; Montgomery, 17,773; Neshoba, 34,274; Newton, 27,896; Noxubee, 34,222; Oktibbeha, 13,133; Panola, 54,946; Pearl River, 4,155; Perry, 4,859; Pike, 22,237; Pontotoc, 28,341; Prentiss, 22,768; Quitman, 59,858; Rankin, 20,253; Scott, 21,270; Sharkey, 37,616; Simpson, 23,835; Smith, 22,276; Stone, 1,263; Sunflower, 162,313; Tallahatchie, 69,394; Tate, 32,292; Tippah, 24,646; Tishomingo, 15,665; Tunica, 61,943; Union, 26,053; Walthall, 27,067; Warren, 13,438; Washington, 108,881; Wayne, 13,346; Webster, 16,197; Wilkinson, 10,425; Winston, 22,425; Yalobusha, 17,551; Yazoo, 66,710; total county allotments, 2,552,800; 4 percent reserve, 91,098; reserve for new growers, 45,549; total—Mississippi, 2,689,447.

Missouri: Barton, 2; Bollinger, 94; Butler, 11,793; Cape Girardeau, 124; Carter, 12; Dunklin, 83,342; Howell, 475; Mississippi, 29,366; New Madrid, 88,412; Oregon, 1,035; Ozark, 685; Pemiscot, 109,441; Ripley, 4,537; Scott, 17,494; Stoddard, 32,042; Taney, 207; Wayne, 32; total county allotments, 379,093; 4% reserve, 11,477; reserve for new growers, 5,738; total Missouri, 396,308.

New Mexico: Chaves, 24,799; Curry, 987; De Baca, 73; Dona Ana, 35,561; Eddy, 24,544; Grant, 24; Harding, 211; Hidalgo, 340; Lea, 1,196; Luna, 1,737; Otero, 457; Quay, 3,142; Roosevelt, 16,244; Sierra, 696; Socorro, 66; total county allotments, 110,077; 4% reserve, 3,417; reserve for new growers, 1,708; total New Mexico, 115,202.

North Carolina: Alamance, 1,022; Alexander, 3,340; Anson, 31,913; Beaufort, 5,537; Bertie, 8,077; Bladen, 6,827; Brunswick, 524; Burke, 989; Cabarrus, 13,829; Caldwell, 248; Camden, 2,500; Carteret, 838; Caswell, 106; Catawba, 12,061; Chatham, 5,392; Chowan, 4,457; Cleveland, 49,784; Columbus, 3,574; Craven, 2,514; Cumberland, 22,810; Currituck, 1,498; Davidson, 2,804; Davie, 5,091; Duplin, 9,904; Durham, 637; Edgecombe, 25,635; Forsyth, 436; Franklin, 18,190; Gaston, 14,906; Gates, 4,740; Granville, 2,007; Greene, 8,896; Guilford, 558; Halifax, 36,641; Harnett, 23,512; Hertford, 5,102; Hoke, 18,125; Hyde, 3,139; Iredell, 21,824; Johnston, 41,422; Jones, 2,891; Lee, 4,856; Lenoir, 9,116; Lincoln, 18,066; McDowell, 24; Martin, 6,057; Mecklenburg, 25,658; Montgomery, 4,875; Moore, 3,621; Nash, 22,804; New Hanover, 55; Northampton, 25,463; Onslow, 2,688; Orange, 1,186; Pamlico, 3,224; Pasquotank, 2,542; Pender, 1,986; Perquimans, 5,544; Person, 8; Pitt, 14,167; Polk, 4,975; Randolph, 961; Richmond, 14,508; Robeson, 51,244; Rockingham, 9; Rowan, 16,269; Rutherford, 23,568; Sampson, 35,153; Scotland, 25,033; Stanly, 9,064; Tyrrell, 857; Union, 41,266; Vance, 4,295; Wake, 17,827; Warren, 16,756; Washington, 1,946; Wayne, 24,020; Wilkes, 209; Wilson, 17,776; Yadkin, 479; total county allotments, 882,455; 4 per cent reserve, 32,036; reserve for new growers, 16,018; total—North Carolina, 930,509.

Oklahoma: Adair, 288; Alfalfa, 255; Atoka, 13,682; Beckham, 87,628; Blaine, 28,139; Bryan, 45,581; Caddo, 104,059; Canadian 21,104; Carter, 18,607; Cherokee, 4,747; Choctaw, 26,578; Cleveland, 15,754; Coal, 14,579; Commanche, 40,028; Cotton, 44,127; Craig, 851; Creek, 30,823; Custer, 35,717; Delaware, 199; Dewey, 19,572; Ellis, 4,132; Garfield, 1,004; Garvin, 43,177; Grady, 72,988; Grant, 89; Greer, 73,813; Harmon, 57,836; Harper, 41; Haskell, 21,008; Hughes, 30,644; Jackson, 103,848; Jefferson, 46,351; Johnston, 16,663; Kay, 649; Kingfisher, 9,222; Kiowa, 92,226; Latimer, 4,217; Le Flore, 35,304; Lincoln, 34,250; Logan, 20,218; Love, 22,656; McClain, 46,132; McCurtain, 37,089; McIntosh, 44,915; Major, 3,397; Marshall, 14,865; Mayes, 6,239; Murray, 9,599; Muskogee, 51,571; Noble, 4,288; Nowata, 1,684; Okfuskee, 41,119; Oklahoma, 12,980; Okmulgee, 33,878; Osage, 8,785; Ottawa, 25; Pawnee, 8,382; Payne, 16,570; Pittsburg, 29,755; Pontotoc, 19,107; Pottawatomie, 27,626; Pushmataha, 7,347; Roger Mills, 44,706; Rogers, 6,174; Seminole, 21,307; Sequoyah, 18,949; Stephens, 39,634; Tillman, 109,237; Tulsa, 8,678; Wagoner, 29,949; Washington, 265; Washita, 105,050; Woods, 31; Woodward, 1,894; total county allotments, 2,053,881;

4% reserve, 81,566; reserve for new growers, 40,783; total Oklahoma, 2,176,230.

South Carolina: Abbeville, 26,536; Aiken, 41,691; Allendale, 16,549; Anderson, 81,811; Bamberg, 22,146; Barnwell, 31,594; Beaufort, 1,780; Berkeley, 9,521; Calhoun, 24,331; Charleston, 1,981; Cherokee, 28,678; Chester, 27,329; Chesterfield, 43,708; Clarendon, 30,668; Colleton, 16,828; Darlington, 34,062; Dillon, 25,154; Dorchester, 13,113; Edgefield, 18,934; Fairfield, 18,029; Florence, 28,410; Georgetown, 1,720; Greenville, 49,203; Greenwood, 22,690; Hampton, 13,750; Horry, 2,965; Jasper, 3,490; Kershaw, 34,762; Lancaster, 21,992; Laurens, 44,540; Lee, 38,610; Lexington, 20,471; McCormick, 12,095; Marion, 11,291; Marlboro, 49,631; Newberry, 26,323; Oconee, 26,470; Orangeburg, 80,762; Pickens, 22,530; Richland, 17,879; Saluda, 19,043; Spartanburg, 75,765; Sumter, 44,525; Union, 21,485; Williamsburg, 25,609; York, 38,976; total county allotments, 1,269,430; 4 percent reserve, 45,103; reserve for new growers, 22,552; total—South Carolina, 1,337,085.

Tennessee: Bedford, 2,708; Benton, 5,515; Blount, 1; Bradley, 3,932; Cannon, 101; Carroll, 23,989; Chester, 13,961; Coffee, 2,314; Crockett, 27,863; Davidson, 26; Decatur, 7,784; De Kalb, 44; Dickson, 13; Dyer, 41,073; Fayette, 58,737; Franklin, 6,535; Gibson, 47,642; Giles, 15,315; Grundy, 202; Hamilton, 2,008; Hardeman, 25,450; Hardin, 13,192; Haywood, 47,096; Henderson, 23,128; Henry, 10,841; Hickman, 61; Humphreys, 118; Knox, 32; Lake, 27,528; Lauderdale, 33,920; Lawrence, 24,469; Lewis, 495; Lincoln, 15,187; Loudon, 12; McMinn, 4,003; McNairy, 23,815; Madison, 38,834; Marion, 773; Marshall, 822; Maury, 523; Meigs, 1,307; Monroe, 976; Moore, 196; Obion, 17,588; Overton, 8; Perry, 387; Polk, 4,001; Putnam, 1; Rhea, 29; Roane, 7; Rutherford, 12,451; Sequatchie, 12; Shelby, 70,868; Stewart, 36; Tipton, 50,359; Van Buren, 12; Warren, 1,286; Wayne, 4,627; Weakley, 13,327; White, 292; Williamson, 342; Wilson, 206; total county allotments, 728,380; 4% reserve, 25,774; reserve for new growers, 12,887; total Tennessee, 767,041.

Texas: Anderson, 39,668; Andrews, 2,407; Angelina, 16,664; Aransas, 2,084; Archer, 8,519; Armstrong, 2,761; Atascosa, 31,016; Austin, 33,371; Bailey, 60,728; Bandera, 130; Bastrop, 40,891; Baylor, 29,270; Bee, 32,366; Bell, 121,133; Bexar, 25,591; Blanco, 3,802; Borden, 14,153; Bosque, 40,043; Bowie, 53,576; Brazoria, 18,518; Brazos, 35,059; Brewster, 311; Briscoe, 24,328; Brooks, 5,976; Brown, 20,063; Burleson, 51,553; Burnet, 21,742; Caldwell, 54,540; Calhoun, 20,998; Callahan, 21,946; Cameron, 50,990; Camp, 14,985; Carson, 550; Cass, 57,649; Castro, 11,394; Chambers, 1,429; Cherokee, 52,573; Childress, 62,455; Clay, 41,181; Cochran, 42,419; Coke, 20,428; Coleman, 72,754; Collin, 125,543; Collingsworth, 78,136; Colorado, 27,280; Comal, 5,696; Comanche, 26,400; Concho, 41,016; Cooke, 38,941; Coryell, 67,990; Cottle, 66,331; Crockett, 7; Crosby, 87,419; Dallas, 81,302; Dawson, 122,059; Deaf Smith, 566; Delta, 45,821; Denton, 60,977; De Witt, 52,399; Dickens, 58,166; Dimmit, 700; Donely, 42,708; Duval, 30,005; Eastland, 11,653; Ector, 341; Ellis, 177,380; El Paso, 30,278; Erath, 35,507; Falls, 124,582; Fannin, 103,895; Fayette, 57,108; Fisher, 97,423; Floyd, 48,001; Foard, 25,064; Fort Bend, 78,706; Franklin, 18,758; Freestone, 47,102; Frio, 4,561; Gaines, 16,951; Galveston, 275; Garza, 36,501; Gillespie, 6,796; Glasscock, 4,267; Goliad, 22,811; Gonzales, 58,380; Gray, 7,322; Grayson, 89,278; Gregg, 12,773; Grimes, 44,734; Guadalupe, 62,125; Hale, 74,429; Hall, 89,060; Hamilton, 34,402; Hansford, 14; Hardeman, 56,593; Hardin, 656; Harris, 17,256; Harrison, 66,682; Haskell, 102,439; Hays, 22,206; Hemphill, 9,781; Henderson, 46,827; Hidalgo, 79,555; Hill, 154,127; Hockley, 116,359; Hood, 10,250; Hopkins, 74,726; Houston, 64,445; Howard, 63,717; Hudspeth, 8,026; Hunt, 132,975; Hutchinson, 23; Irion, 1,163; Jack, 8,772; Jackson, 29,758; Jasper, 5,608; Jeff Davis, 1; Jefferson, 2,195; Jim Hogg, 7,911; Jim Wells, 42,100; Johnson, 67,273; Jones, 135,016; Karnes, 86,364; Kaufman, 114,974; Kendall, 455; Kenedy, 111; Kent, 27,867; Kerr, 308; Kimble, 1,808; King, 11,490; Kinney, 30; Kleberg, 13,186; Knox, 65,820; Lamar, 88,719; Lamb, 128,412; Lampasas, 14,520; La Salle, 7,668; Lavaca, 50,052; Lee, 25,006; Leon, 39,130; Liberty, 9,262; Limestone, 125,350; Lipscomb, 556; Live Oak, 34,850; Llano, 3,759; Lubbock, 171,107; Lynn, 143,910; McCulloch, 45,932; McLennan, 150,772; McMullen, 3,856; Madison, 31,795; Marion, 14,855; Martin, 54,662; Mason, 6,316; Matagorda, 18,479; Maverick, 98; Medina, 3,964; Menard, 3,363; Midland, 23,205; Milam, 105,624; Mills, 15,808; Mitchell, 72,243; Montague, 24,221; Montgomery, 9,183; Moore, 131; Morris, 17,144; Motley, 40,439; Nacogdoches, 44,999; Navarro, 158,074; Newton, 2,957; Nolan, 46,043; Nueces, 147,955; Ochiltree, 75; Orange, 576; Palo Pinto, 8,102; Panola, 49,912; Parker, 14,460; Parmer, 17,879; Pecos, 5,745; Polk, 14,481; Presidio, 3,810; Rains, 20,081; Randall, 240; Reagan, 4; Real, 9; Red River, 67,492; Reeves, 5,495; Refugio, 18,935; Roberts, 26; Robertson, 69,658; Rockwall, 29,320; Runnels, 107,647; Rusk, 66,077; Sabine, 10,999; San Augustine, 18,416; San Jacinto, 10,693; San Patricio, 93,328; San Saba, 20,956; Schleicher, 9,900; Scurry, 72,588; Schackelford, 8,592; Shelby, 47,727; Smith, 69,868; Somervell, 4,678; Starr, 21,580; Stephens, 3,800; Sterling, 845; Stonewall, 38,212; Sutton, 90; Swisher, 9,491; Tarrant, 24,586; Taylor, 69,726; Terrell, 36; Terry, 85,048; Throckmorton, 13,017; Titus, 26,638; Tom Green, 47,849; Travis, 63,669; Trinity, 14,291; Tyler, 3,916; Upshur, 37,603; Uvalde, 2,299; Van Zandt, 79,612; Victoria, 34,595; Walker, 20,303; Waller, 15,123; Ward, 7,331; Washington, 52,008; Webb, 4,097; Wharton, 82,421; Wheeler, 53,150; Wichita, 27,264; Wilbarger, 72,476; Willacy, 45,715; Williamson, 150,151; Wilson, 31,332; Wise, 19,645; Wood, 38,668; Yoakum, 8,964; Young, 30,862; Zapata, 3,802; Zavala, 945; total county allotments, 9,390,154; 4% reserve, 351,175; reserve for new growers, 175,587; total Texas, 9,916,916.

Virginia: Amelia, 6; Brunswick, 6,941; Charlotte, 582; Chesterfield, 29; Dinwiddie, 946; Greensville, 7,428; Halifax, 247; Isle of Wight, 2,314; Lunenburg, 1,160; Mecklenburg, 7,337; Middlesex, 4; Nansemond, 5,427; New Kent, 58; Norfolk, 1,027; Northampton, 1; Nottoway, 176; Pittsylvania, 22; Prince Edward, 8; Prince George, 233; Princess Anne, 262; Southampton, 12,643; Surry, 320; Sussex, 3,123; total county allotments, 50,294; 4% reserve, 1,771; reserve for new growers, 885; total Virginia, 52,950.

Done at Washington, D. C., this 28th day of December 1939. Witness my hand and the Seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 39-4836; Filed, December 29, 1939; 12:21 p.m.]

Rural Electrification Administration.

[Administrative Order No. 420]

AMENDMENT OF PRIOR ALLOCATIONS OF FUNDS FOR LOANS

DECEMBER 20, 1939.

I hereby amend Administrative Order No. 60, dated February 13, 1937, by changing the project designation "Georgia 58 Lamar" appearing therein to read: "Georgia 58 Butts".

I hereby amend Administrative Order No. 289, dated September 12, 1938, by changing the project designation "Georgia 9058C1 Lamar" appearing therein to read: "Georgia 9058C1 Butts".

I hereby amend Administrative Order No. 180, dated January 6, 1938, by changing the project designation "Georgia 8058AW Lamar" appearing therein to read: "Georgia 8058W1 Butts".

I hereby amend Administrative Order No. 358, dated June 19, 1939, by changing the project designation "Georgia 0058W2 Lamar" appearing therein to read: "Georgia 0058W2 Butts".

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 39-4825; Filed, December 28, 1939; 3:41 p. m.]

SECURITIES AND EXCHANGE COMMISSION.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its

office in the City of Washington, D. C., on the 28th of December A. D. 1939.

[File 32-180]

IN THE MATTER OF CENTRAL MAINE POWER COMPANY

SUPPLEMENTAL ORDER RELATIVE TO FINDER'S FEE

The Commission having in its order of November 28, 1939, approved the amended application of Central Maine Power Company, a subsidiary of New England Public Service Company, a registered holding company, filed pursuant to Section 6 (b) of the Public Utility Holding Company Act of 1935 for exemption from the provisions of Section 6 (a) of said Act of the issue and sale of—

(1) $1,250,000 principal amount of Central Maine Power Company's First and General Mortgage Bonds, Series K, 4%, due 1964, to The Equitable Life Assurance Society of the United States at a price of 100% of the principal amount thereof plus accrued interest from September 1, 1939, and

(2) 5,000 shares of no par value common stock of Central Maine Power Company at a price of $100 per share to New England Public Service Company (subject to the preemptive right to purchase by the other common and 6% preferred stockholders of Central Maine Power Company; and

The Commission in said order of November 28, 1939 having in the public interest and for the protection of investors and consumers reserved jurisdiction to determine at a later date whether the finder's fee to be paid to Coffin & Burr, Incorporated, and The First Boston Corporation for negotiating the sale of said bonds is or is not reasonable, and the Commission having ordered that no finder's fee shall be paid by Central Maine Power Company until further order of this Commission; and

A public hearing having been duly held after appropriate notice for the purpose of taking additional evidence with respect to said finder's fee pursuant to an order of the Commission dated December 4, 1939; [1] and

The Commission having considered the record in this matter;

It is ordered, That the reservation of jurisdiction by the Commission over said finder's fee and its payment be and the same hereby is relinquished; and

It is further ordered, That the paragraph numbered "(6)" of the Commission's order of November 28, 1939 which reads

"(6) That the Commission reserves jurisdiction to determine at a later date whether the Finder's Fee to be paid to Coffin and Burr, Incorporated, and The First Boston Corporation for negotiating the sale of the bonds is or is not reasonable, and pending further order of the Commission no such Finder's Fee shall be paid."

be and the same hereby is no longer in effect.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-4833; Filed, December 29, 1939; 11:49 a. m.]

[1] 4 F.R. 4776 DI.

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of December, A. D. 1939.

[File Nos. 46-175 and 47-48]

IN THE MATTER OF KENTUCKY UTILITIES COMPANY AND LEXINGTON UTILITIES COMPANY

ORDER AMENDING ORDER APPROVING APPLICATIONS, ETC.

Lexington Utilities Company, a subsidiary of a registered holding company, having filed an application pursuant to Section 10 of the Public Utility Holding Company Act of 1935 regarding the acquisition of all property and assets of its subsidiary Lexington Ice Company;

Lexington Utilities Company having also filed an application pursuant to Rule U-12F-1 under said Act regarding the disposition of all its property and assets to its parent Kentucky Utilities Company;

Kentucky Utilities Company, a registered holding company, having filed an application pursuant to Section 10 of said Act regarding the proposed acquisition of all the property and assets of Lexington Utilities Company;

Kentucky Utilities Company having also filed an application pursuant to Section 7 of said Act regarding the assumption of liability on outstanding First and Refunding Mortgage Bonds, 5% Series due 1952, of Lexington Utilities Company;

The Commission having issued its order on December 1, 1939 approving said applications and allowing said declaration to become effective, subject however to the condition that the proposed transactions be effected within a period of thirty (30) days following the issuance of said order:

Kentucky Utilities Company and Lexington Utilities Company having requested that said order be amended so as to permit the proposed transactions to be effected, pursuant to the order, within a period of forty (40) days following the issuance of said order;

It is ordered, That said order of December 1, 1939 be, and it hereby is, amended so that condition No. 2 shall read as follows:

"2. That the proposed transactions shall be effected within a period of forty (40) days following the issuance of this order;".

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 39-4832; Filed, December 29, 1939; 11:49 a. m.]

United States of America—Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 28th day of December, A. D. 1939.

[File Nos. 43-270, 65-2]

IN THE MATTER OF CONSUMERS POWER COMPANY, AND THE COMMONWEALTH & SOUTHERN CORPORATION, AND IN THE MATTER OF MORGAN STANLEY & CO., INCORPORATED, AND BONBRIGHT & COMPANY, INCORPORATED

ORDER

Consumers Power Company, a subsidiary of The Commonwealth & Southern Corporation, a registered holding company, having filed a declaration pursuant to Section 7 of the Public Utility Holding Company Act of 1935, concerning the issue and sale to the public of $28,594,000 principal amount of First Mortgage Bonds, 3¼% Series of 1939, due 1969; and the issue and sale to The Commonwealth & Southern Corporation of 125,000 shares of common stock, no par value, at a price of $28.25 per share;

The Commonwealth & Southern Corporation having filed an application pursuant to Section 10 of the Act for the approval of the acquisition by it of the aforesaid 125,000 shares of common stock to be issued by Consumers Power Company;

Morgan Stanley & Co., Incorporated and Bonbright & Company, Incorporated, having made application pursuant to Rule U-12F-2 promulgated under the Act, for a determination of their status under such rule, as underwriters for the proposed First Mortgage Bonds; this matter having been consolidated with the declaration of Consumers Power Company and the application of The Commonwealth & Southern Corporation, and a request in said application and by motion having been made for disposition of the declaration and the application of Consumers Power Company and The Commonwealth & Southern Corporation separate from and prior to the conclusion of the proceedings under the rule;

A public hearing having been duly held after appropriate notice; the record having been completed with respect to the aforementioned declaration of Consumers Power Company and application of The Commonwealth & Southern Corporation, but the record with respect

to the application filed by Morgan Stanley & Co., Incorporated and Bonbright & Company, Incorporated not having been completed; and the Commission having made its findings herein with respect to the declaration and application of Consumers Power Company and The Commonwealth & Southern Corporation;

It is ordered, That proceedings on the application of Morgan Stanley & Co., Incorporated and Bonbright & Company, Incorporated pursuant to Rule U-12F-2 heretofore consolidated with proceedings herein be severed from this proceeding and that hearings on said application of Morgan Stanley & Co., Incorporated and Bonbright & Company, Incorporated continue until the completion of the record concerning the issues raised by said application: *Provided, however,* That pending the final determination of the issues raised by said U-12F-2 application, no underwriting fees, commissions or any other compensation deriving from the issuance and sale of those securities as to which no adverse order is entered hereby shall be paid directly or indirectly to, or retained by, Morgan Stanley & Co., Incorporated or to Bonbright and Company, Incorporated (including any management or other fees to be paid to or retained by Morgan Stanley & Co., Incorporated, and Bonbright & Company, Incorporated, by virtue of any agreements or arrangements among any of the underwriters or otherwise);

It is further ordered, That the declaration filed by Consumers Power Company, insofar as the same relates to the issuance and sale by it to the public of $18,594,000 of its First Mortgage Bonds for refunding purposes, be and hereby is permitted to become effective, and that the declaration filed by Consumers Power Company, insofar as the same relates to the issuance and sale by it of 125,000 shares of its common stock at $28.25 per share, be and hereby is permitted to become effective, subject to the condition that said bonds and said stock be issued and sold in accordance with the terms and conditions of, and for the purposes represented by, said declaration, except as modified in the preceding paragraph hereof; and to the condition that such securities shall be issued and sold within thirty days after the date of this order;

It is further ordered, That, within ten days after the issue and sale of such securities, applicant shall file with this Commission a certificate of notification showing that such issue and sale have been effected in accordance with the terms and conditions of this order;

It is further ordered, That the application filed by the Commonwealth and Southern Corporation pursuant to Section 10, in regard to the acquisition of the common stock of Consumers Power Company, be and it hereby is dismissed;

It is further ordered, That the declaration of Consumers Power Company pursuant to Section 7, insofar as it relates to the issuance of any securities in addition to said $18,594,000 of First Mortgage Bonds and said 125,000 shares of common stock, shall not become effective;

It is further ordered, That, except as the Commission may by order or orders from time to time permit, so long as any of the First Mortgage Bonds are outstanding, the Company shall not declare or pay any dividend from net income earned after December 31, 1939 (other than dividends payable solely in shares of its stock), or make any other distribution on any shares of its preferred or common stock or make any disbursement for the purchase or retirement of any of its stock, unless the amount expended or accrued by the Company (or any successor or successors) for maintenance and repairs plus provision for retirements, depreciation and amortization of property out of income earned during the period from the close of business on December 31, 1939, to the date of the proposed payment of such dividend or making of such distribution or disbursement, shall equal 15% of the gross operating revenues of the Company less the cost of electric energy and gas purchased for resale and rentals paid for use of utility assets: *Provided, however,* That any transfers to the earned surplus of the Company from net income earned after December 31, 1939, over and above all such dividends, distributions, and disbursements (including the dividends then to be paid, or the distributions or disbursements then to be made) may be used as a credit to offset any deficiency in the amount expended or accrued for maintenance and repairs plus provisions for retirements, depreciation and amortization of property out of income earned after December 31, 1939, in satisfying the aforementioned 15% requirements.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-4843; Filed, December 29, 1939; 12:51 p. m.]

United States of America Before the Securities and Exchange Commission

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of December, A. D. 1939.

[File Nos. 51-31, 51-32, 51-33, 51-35]

IN THE MATTER OF UNITED FUEL GAS COMPANY, CUMBERLAND AND ALLEGHENY GAS COMPANY, WARFIELD NATURAL GAS COMPANY, AND THE UNION LIGHT, HEAT AND POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

Applications pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on January 15, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Willis E. Monty or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before January 13, 1940.

The matter concerned herewith is in regard to proposed payments to Columbia Gas & Electric Corporation, a registered holding company, by United Fuel Gas Company, Cumberland and Allegheny Gas Company, Warfield Natural Gas Company and The Union Light, Heat and Power Company, subsidiary companies thereof, of interest for the three months' period ending December 31, 1939 on outstanding 6% Demand Notes of the applicants in the principal amounts of $12,035,000, $366,864.22, $9,790,000 and $2,367,238.47, respectively.

The applicants have designated Section 12 (c) of the Act and Rule U-12C-3 promulgated thereunder as applicable to the above transactions and request Commission approval in regard thereto to the extent that said Section and Rule are deemed to be applicable to the proposed payments of interest.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 39-4844; Filed, December 29, 1939; 12:51 p. m.]